

16 MAY 1947

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
927	2590		Telegram dated 29 December 1938 - Speech by Wang Ching- wei in Hanoi, French- Indo-China		22306
928	2591		Article by Wang Ching- wei in Shanghai on 10 July 1939 entitled "My Fundamental Idea and Forward Aim Con- cerning Sino-Japanese Relations		22313
929	2592		A Circular Telegram publish- ed by the General Head- quarters of the Japanese Expeditionary Army to China entitled "Materials for Reference to the Present Situation"		22330
930	2593		Telegram sent by Wang Ching- wei to his former comrades in the Chungking Govern- ment, dated 17 September 1939, Shanghai		22332
931	2594		The Request for Cooperation made by Wang Ching-wei to the Provisional Government and the Renovation Govern- ments, dated 21 September 1939, Shanghai		22333
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I N D E X
of
WITNESSES

Defense' Witnesses

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OTSUKA, Reizo

22432

Direct by Mr. OHARA

22432

1 Friday, 16 May 1947

2 - - -

3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 - - -

11 Appearances:

12 For the Tribunal, same as before.

13 For the Prosecution Section, same as before.

14 For the Defense Section, same as before.

15 - - -

16 (English to Japanese and Japanese
17 to English interpretation was made by the
18 Language Section, IMTPE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: I give the decision on the
4 matter reserved yesterday afternoon.

5 We have decided to admit excerpts from the
6 book "Sharing Our Fate" so far as the speeches and
7 documents are those of the alleged Chinese puppet
8 governments or members thereof. But in fairness to
9 the defense we should point out that, as the book was
10 sponsored by the Japanese Army during the war, it may
11 have little probative value. We insist on the best
12 evidence available and this may fall short of that.
13 We allow for the disturbed conditions in China during
14 the war but we expect the defense to do all in their
15 power to secure the best evidence.

16 The first excerpt tendered purports to be
17 the contents of a telegram reporting a speech by Wang
18 Ching-wei in Hanoi, French Indo-China, after he fled
19 from Nanking, on December 29, 1938. Clearly the tele-
20 gram should be produced or its absence accounted for.
21 probably, however, it has been destroyed.

22 The excerpt from the book covering this
23 speech will be admitted on the usual terms, but, as
24 already stated, the defense must endeavor to produce
25 the telegram or give convincing reasons for not being

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20 gram should be produced or its absence accounted for.
21 probably, however, it has been destroyed.

22 The excerpt from the book covering this
23 speech will be admitted on the usual terms, but, as
24 already stated, the defense must endeavor to produce
25 the telegram or give convincing reasons for not being

1 able to do so.

2 CLERK OF THE COURT: Defense document 927
3 will receive exhibit No. 2590.

4 (Whereupon, the document above referred
5 to was marked defense exhibit No. 2590 and
6 received in evidence.)

7 MR. FURNESS: If the Court please, if in
8 the Court's opinion it would add to the probative
9 value of these documents, excerpts from "Sharing Our
10 Fate," I can produce the witness who has just testified
11 again who translated them and saw the original docu-
12 ments, who talked with the men who made the statements.

13 THE PRESIDENT: Well, proceed to read these
14 documents and we will consider that, Major Furness.

15 MR. FURNESS: I will read exhibit 2590:
16 "December 29, 1938. Hanoi, French Indo-China.
17 "(Wang Ching-wei)

18 "Regarding the reasons for China's resistance
19 at present there was a paragraph, which follows, in
20 the statement issued at the Extraordinary National
21 Congress held in April this year: 'It was in the hope
22 of avoiding military actions and carrying out the
23 following two tasks by peaceful measures that China,
24 in spite of all unbearable humiliations, has been carry-
25 ing on negotiations proposed by Japan since the

1 conclusion of the Tanhu Armistice Agreement in 1934
2 (the 9th year of Showa). The tasks were firstly
3 insuring the security of all the provinces in North
4 China and secondly a reasonable settlement of the pend-
5 ing problems relating to the Four North-Eastern
6 Provinces. Namely, the minimum political demands we
7 made were the inviolability of foreign rights and
8 interests in China, the guarantee for China's inde-
9 pendence and the territorial integrity and, economically,
10 on the other hand our principle was for materializing
11 reciprocity and equality. However, the outbreak of
12 the Marco Polo Bridge Incident in July 1937 taught us
13 that the above-mentioned hopes for a peaceful settlement
14 could not be realized and compelled China to take up
15 arms to fight against Japan.' But in the statement
16 of Premier KONOYE (in the form of conversation) of
17 December 22, Japan made public her basic principles
18 regarding the re-adjustment of the Sino-Japanese rela-
19 tions. The first point on which he laid stress was
20 the policy of good-will and friendship. According to
21 the statement, Japan demands from China neither terri-
22 tory nor reparations at all.

23 "Japan has a great regard for the sovereignty
24 of China, but in order to secure China's complete
25 independence, Japan, as is suggested by the policy

1 conclusion of the Tanhu Armistice Agreement in 1934
2 (the 9th year of Showa). The tasks were firstly
3 insuring the security of all the provinces in North
4 China and secondly a reasonable settlement of the pend-
5 ing problems relating to the Four North-Eastern
6 Provinces. Namely, the minimum political demands we
7 made were the inviolability of foreign rights and
8 interests in China, the guarantee for China's inde-
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19 tions. The first point on which he laid stress was
20 the policy of good-will and friendship. According to
21 the statement, Japan demands from China neither terri-
22 tory nor reparations at all.

23 "Japan has a great regard for the sovereignty
24 of China, but in order to secure China's complete
25 independence, Japan, as is suggested by the policy

1 carried out in her Meiji era, is prepared to agree to
2 the return of her settlements to China and to abolish
3 extraterritoriality as a price for the assurance that
4 Japanese may freely reside and engage in business
5 transactions in this country. Once the Japanese Govern-
6 ment solemnly announced such a declaration, not only
7 will the security of the North China provinces be assured
8 by peaceful measures, but also those areas which have
9 been lost in the course of the Incident will be re-
10 covered, and consequently, our territorial sovereignty,
11 administrative independence and territorial integrity
12 will be established. Such being the situation, in
13 accordance with the declaration of the Congress, we must
14 decide our attitude and take some measures for a
15 reasonable settlement of the problems relating to the
16 Four North Eastern Provinces. This matter has so
17 often been proposed by the Japanese Government in the
18 last several years.

19 "We have suspected that such cooperation
20 with Japan against the Comintern might lead to Japan's
21 interference in our military and political matters,
22 but such suspicion may well be thrown away now that
23 Japan most clearly announced that the Sino-Japanese
24 Anti-Comintern Pact should be concluded in the same
25 spirit as that of the Italian-German-Japanese

1 Anti-Comintern Pact. Since the Anti-Comintern Pact
2 just aims at checking and overturning international
3 conspiracy of the communists, the Pact should not be
4 allowed to bear upon China's relations with the U.S.S.R.
5 Moreover, the Chinese Communist Party which has already
6 promised to follow the Three Principles of the People,
7 should stop the work of organization and propaganda
8 of the party and abolish its Border Government and its
9 special military organization and, at the same time,
10 should absolutely obey the laws and institutions of
11 the Government of the Chinese Republic.

12 "The Three Principles of the People is the
13 fundamental principle of the Chinese people, so that,
14 in order to fulfill our duty, we who defend our country
15 must voluntarily and actively suppress any organization
16 or propaganda contradicting the principle. The third
17 point is the economic cooperation. This also has been
18 often proposed by the Japanese Government in the past
19 several years. Until today we have been of the opinion
20 that so far as political confusion is left unsettled,
21 the economic cooperation is out of the question. Now
22 the Japanese Government has solemnly declared that Japan
23 will respect the sovereignty, political independence
24 and territorial integrity of China and will neither
25 aim at an economic monopoly in China nor demand that

1 China restrict the rights and interests of any third
2 Power. More than that, Japan has promised to stand on
3 the principle of equality for economic cooperation
4 between China and Japan. Such being the case, in
5 principle we should agree to that proposal, and on
6 this basis produce various concrete terms. After a
7 thoughtful deliberation I have come to believe as
8 follows:

9 "The National Government should, as soon as
10 possible, exchange views with the Government of Japan
11 on the basis of the above three points with a view to
12 a speedy restoration of peace between them. We should
13 now remember the fact that in the statement on Nov. 3
14 the Japanese Government has changed its former attitude
15 that was expressed on January 16 this year. A road
16 to negotiations can be opened if only the National
17 Government will begin a peace discussion on the basis
18 of the above three points. The object of China's
19 military resistance is to secure her national existence
20 and independence. The country has suffered a heavy
21 blow in the course of more than a year of this war.
22 If we can successfully restore peace acting on justice,
23 the existence and independence of the country will be
24 maintained, whereby we will have attained our object
25 of military resistance. These three points are

1 consistent with the spirit of peace. As for the terms
2 of peace, we must give thoughtful deliberation to them
3 to make them valid. The most important of all is that
4 a complete withdrawal of Japanese forces from China
5 should be carried out rapidly and simultaneously every-
6 where. And then, the so-called specific zone, as
7 proposed by Japan in which to station her forces while
8 the Sino-Japanese Anti-Comintern Pact is in existence,
9 should be restricted only to Inner Mongolia and
10 vicinity. This stationing of troops will indeed bear
11 upon the sovereignty, political independence and terri-
12 torial right of China, but the above restriction will
13 help China to carry out her post-war rehabilitation
14 and reconstruction work.

15 "In view of the neighborly relations between
16 the nations around Japan and China, it is quite natural
17 and necessary for China and Japan to be on terms of good-
18 will and friendship. The present situation which is
19 far from being normal should be thoroughly re-examined
20 and both parties ought to realize clearly their respec-
21 tive responsibilities in this matter. For the purpose
22 of laying a cornerstone for a permanent peace between
23 us, China should so change her education policy as
24 to be consistent with the friendship principle, while
25 Japan should establish a new pro-Chinese education

1 policy casting away her traditional scornful attitude
2 toward China as well as her thoughts of conquest of
3 China. This alone is what we should endeavor for for
4 the welfare of East Asia and at the same time, for the
5 secure peace and safety not merely of the Pacific but
6 of the whole world, we should cooperate with every
7 country concerned for the common cause of international
8 friendship and the promotion of our mutual interests.

9 "Availing myself of this opportunity, I wish
10 to make these proposals as stated above and heartily
11 wish that they will prove acceptable."

12 I now offer in evidence defense document
13 No. 928. This is an article by Wang Ching-wei in
14 Shanghai on July 10, 1939, and is included in the book
15 "Sharing Our Fate." It states the fundamental bases
16 on which the new National Government in Nanking was to
17 be formed and it criticizes some of the past actions
18 and policies of Japan and shows the independence of such
19 government.

20 THE PRESIDENT: Brigadier Nolan.

21 BRIGADIER NOLAN: May it please the Tribunal,
22 might I be understood, if you please, your Honor, to
23 object to these excerpts as they are offered in evidence
24 without taking up the time of the Tribunal to state the
25 objection each and every time?

1 THE PRESIDENT: Yes.

2 Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document 928 will
4 receive exhibit No. 2591.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 2591 and received in evidence.)
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1 FURNESS: I will now read exhibit No. 2501,
2 an article by Wang Ching-wei.

3 "July 10, 1939, at Shanghai.

4 "Late President Sun once told us, 'The
5 success of the Chinese Revolution rests upon Japan's
6 understanding.' The meaning of these words is very
7 important. Japan is the foremost power in the East
8 and has made substantial progress in economic,
9 military and cultural fields. By looking back at
10 the state of affairs of the past several decades,
11 it is no exaggeration to say that without Japan
12 there wouldn't be an East Asia and although China
13 lags behind in everything, she has the largest
14 land area in East Asia, a huge population and
15 an extremely long history. If China should become
16 a thriving power, Japan will infallibly pay atten-
17 tion to what influence China's becoming a power
18 will have on Japan and whether it will be advanta-
19 geous or harmful to her. If it is advantageous to
20 her, Japan will naturally hope for China to become
21 powerful and to be on good terms with her. On the
22 contrary, if it is harmful to Japan, she will destroy
23 China's incentive to become powerful and recognize
24 her as an enemy. For rising China to make the power-
25 ful Japan her enemy is really as ruinous as to strike

1 a rock with an egg and China will inevitably be
2 defeated.

3 . "For this reason, if we want success of
4 our revolution, we must necessarily let Japan know
5 that the success of China's revolution will be
6 advantageous to her. This is not chicanery but
7 sincerity. How can it be made advantageous to
8 Japan? Let the military and diplomatic policies
9 of Japan and China coincide and then if an economic
10 collaboration based on the principle of reciprocity
11 and equality is formulated, China's power will be
12 advantageous and harmless to Japan. To do so
13 absolutely does not harm the sovereignty of China,
14 for it does not injure the sovereignty of a country
15 to unite with another country for their common in-
16 terests. Nor is it harmful to the due rights and
17 interests of a third power, for our union aims at
18 mutual existence and expansion and does not intend
19 to reject those rights and interests of the third
20 power.

21 "In 1924 (the 13th year of Taisho) when
22 President Sun (Sun Yat Sen) personally laid down
23 the fundamental principles at Canton for establish-
24 ing the Nationalist Government, he furthered the
25 Sino-Japanese relations based on the aforementioned

1 policy. After his death in 1925, I fostered his
2 wish and supported the Nationalist Government and
3 defended the aforementioned policy. Being very
4 careful I never changed it in the least. However,
5 in 1928 the situation changed and the Tsinan
6 Incident occurred as an omen of a serious turn in
7 their relations. Of course, it is better to be
8 friends than to be enemies. At this time China
9 should have tried patiently to the utmost to bring
10 about a cordial understanding between the countries
11 for Sino-Japanese relations was about to take a
12 favorable turn. Unhappily the Nationalist Govern-
13 ment at that time failed to take measures, and the
14 Sino-Japanese relations worsened and finally the
15 Incident on September 18th occurred.

16 "I am in no way seeking to criticize the
17 supporters of the then Nationalist Government. I
18 am a private Nationalist and I am a person affiliated
19 with the Government. Therefore, I must naturally
20 bear part of the responsibility for this error.
21 What I want to inform the readers is that I was
22 then a political refugee wandering abroad, because
23 an order for my arrest was issued by the Nationalist
24 Government. On January 28, 1932 I returned to
25 Nanking and took office as President of the

1 Administrative Yuan and later when I held an addi-
2 tional post as the Minister of Foreign Affairs, I
3 advocated the principle of 'resistance on one hand,
4 negotiation on the other,' and redressed the public
5 opinion of that time of 'opposition against direct
6 negotiations' and concluded the Armistice Agree-
7 ments of Shanghai and Tangku. My intention then
8 was to secure local and temporary stability and
9 then at the end establish a wholesome everlasting
10 peace still based respectively on my belief that
11 it's better to be friends than enemies. During
12 a period of four years, my opinion finally ended
13 without being realized. However, I do not blame
14 others for my failure but only regret when I look
15 back at my inability and the results contrary to my
16 expectation. There is only one tone of argument
17 which I have constantly opposed. That is the
18 opinion of the so-called war advocates at the time.
19 I ask you tentatively if China which is barely
20 awakening now, fights with powerful Japan, how
21 will the war result? Is it not as thoughtless as
22 child's play for a nation?

23 "At first I thought Chiang Kai-shek would
24 have similar aims with me. Especially when I read
25 his 'Address to the People' which he issued after

1 his resignation as the President of the Nationalist
2 Government in December 1931. I believed him to be
3 of the same opinion and made up my mind to cooperate
4 with Chiang in all sincerity, but four years later
5 I came to realize that I could not agree with him.
6 On November 1, 1935, after a serious illness, I got
7 wounded in three spots and as it became impossible
8 to keep my health, was obliged to live abroad for
9 a whole year in 1936. When I returned hurriedly
10 on account of the outbreak of the Sian Incident,
11 the situation was undergoing a grave change. At
12 that time I firmly believed that mopping up of
13 Communism should have never been stopped, for the
14 Communist party thinks only of the Comintern and
15 neglects their country China. They received secret
16 orders from the Comintern and abandoned their
17 policy of 'class strife' and hoisted up a new
18 policy of 'resistance to Japan.'

19 "Taking advantage of the racial con-
20 sciousness in recent China, the party is inciting
21 the Sino-Japanese War. Therefore, we should never
22 be caught by such trickery.

23 "The readers will agree if they look back to
24 that time that my entire policy of expression then
25 was stressed in this one point. After the outbreak

1 of the Marco Polo Bridge Incident I did not have
2 from the outset the means to check the Sino-
3 Japanese War, but I have always sought to divert
4 it and also thought it necessary to suppress and
5 expose the conspiracy of the Communist Party.
6 Ultimately I left Chungking on December 18 and
7 announced a peace proposal on the 29th of that
8 month.

9 "In my peace proposal I consented to the
10 statement of the KONOYE Cabinet of Japan. Why
11 did I consent? Because based on my usual con-
12 sistent belief I am of the opinion that it's
13 better to be friends than enemies. One and a
14 half years of war has fully shown Japan's national
15 strength and China's racial consciousness. Japan
16 has already announced her having no intention of
17 aggression and friendly asked China to form a
18 friendly collaboration for a mutual objective.
19 Any why doesn't China shake hands with Japan? How
20 touching and delightful it would be if Japan and
21 China who cried with regret after quarreling were
22 like brothers and became friends again. If Chiang
23 had been clever enough to realize the arrival of
24 a new turn in the Sino-Japanese relations and had
25 resolutely approved the statement, the way to

1 peace between the countries would have been made
2 at once. Then if he had negotiated on the various
3 concrete conditions and had arranged to receive
4 those benefits mutually based on the so-called
5 three fundamental principles, the foundation of
6 an everlasting peace in the East would have been
7 established and thereafter mutual existence and
8 expansion would also have been realized step by
9 step. Unhappily, instead of approving it Chiang
10 opposed Japan's proposal with a repudiating and
11 extremely oppressing attitude and utilizing
12 coercive he opposed all the peace proposals of
13 the nation and the party. It is indeed regretful
14 that as a result half a year was spent in vain and
15 the general situation gradually changed from bad to
16 worse, finally leaving no means of adjustment. The
17 three principles, good neighborhood, joint anti-
18 Comintern and economic cooperation, were for the
19 first time clarified several years ago in KONOYE's
20 statement. But Japan had previously proposed their
21 principles, that is on November 20, 1935, when the
22 Japanese Ambassador ARIYOSHI had an interview with
23 Chiang he proposed to make these three principles
24 the basis of improving the Sino-Japanese relations
25 and Chiang expressed his approval and that he had

1 no counter-proposal. Later, however, he suddenly
2 retracted his previous remarks and found the
3 following excuses:
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1 "Firstly, since he was then the Chairman
2 of the National Military Council and not the Presi-
3 dent of the Administrative Yuan, that discussion can-
4 not be accepted. Secondly, it was not an official
5 talk, for he then talked in his private capacity.
6 Thirdly, he consented to discuss the three principles
7 but did not endorse the principles themselves.
8 Fourthly, when he said that he had no counter-propo-
9 sal, he meant merely execution of the three principles
10 but not his unconditional approval to the principles.
11 As a result, in 1936 the year long negotiation be-
12 tween China and Japan were obliged to come to a
13 deadlock which afterward caused the outbreak of the
14 conflict of the two countries in 1937. After reading
15 the proceedings of that diplomatic conference, I
16 couldn't help but sigh in remorse. Since I already
17 mentioned in my text, to cite an illustration, that
18 Japan's proposed peace conditions at the time when
19 German Ambassador Trautmann tried to arbitrate the
20 incident from December 1937 to January 1938 were no
21 more than these three fundamental principles, I won't
22 repeat it here.

23 "KONOYE's Statement attempts a systematic
24 description of Japan's heretofore consistent opinion
25 and adds clear explanations to each point that our

1 country is anxious about. For example, in regards
2 to the joint anti-Comintern, since China is consid-
3 ering as to whether or not Japan will be able to
4 interfere in China's military and home affairs
5 through this Pact, Japan announces that the Sino-
6 Japanese Anti-Comintern Pact should be concluded in
7 the same spirit as the Italian-German-Japanese Anti-
8 Comintern Pact. Concerning economic cooperation, as
9 we fear the arrival of political complications, Japan
10 announces that she will respect the sovereignty and
11 administrative independence of China and that she
12 has no intention to attain economical monopoly in
13 China, and furthermore that she will not ask China to
14 restrict the rights of third powers. Since there
15 exists such a cordial and clear statement as this,
16 the practice of these three fundamental principles
17 will never do harm to China's freedom and independ-
18 ence. Moreover, the main object of the so-called
19 joint defense against Comintern and economic aggres-
20 sion of Communism. That responsibility is very im-
21 portant. It goes without saying that since Japan
22 longs for China to bear part of this responsibility,
23 she recognizes the fact that only entire freedom and
24 independence will enable China to share this weighty
25 responsibility. In that case isn't our approving

1 this Statement for the sake of a far reaching policy
2 in the East and not snatching temporary peace? There-
3 fore, why need we close the door and take a repudiat-
4 ing attitude towards this Statement?

5 "The propaganda under the control of Chiang
6 is inclined to remark that Japan is actually seeking
7 to destroy China with all her might and that the so-
8 called three fundamental principles are no more than
9 a kind of pretext. Such propaganda is erroneous.
10 First, if Japan intends to destroy China all she has
11 to do is merely continue military operations with all
12 her strength and there is no need to establish a pre-
13 text. Secondly, as I mentioned before, several years
14 have already elapsed since these three principles
15 were first proposed and since the KONOYE Statement
16 these principles were more definitely established as
17 the national policy and public opinion is already
18 solidly backing it. For what reason can this be
19 called a pretext? Thirdly, if between China and Japan
20 there lacks an objective of their joint effort, a
21 conflict of interests will occur and result in in-
22 compatible interests. On the contrary, if there is
23 an object of joint effort, no conflict will occur as
24 their interests become compatible. Looking from the
25 viewpoint of such an important relation, how can we

1 call this a pretext? Fourthly, it was because of
2 our falling in a kind of circular reasoning that we
3 failed to better the Sino-Japanese relations and
4 caused it to change daily from bad to worse. For
5 instance, Japan ascribes the Incident of September
6 18 to China's Anti-Japanese movements while China
7 attributes her Anti-Japanism to Japan's aggression
8 and Japan maintains that she will improve the rela-
9 tions if China abandons her policy of discrimination
10 against foreign nations. Such remarks demand and
11 reproaches the other party and will only worsen the
12 situation more and more. If the two countries accept
13 an aim of their joint effort and at the same time
14 undertake it and then if one demands or censures
15 another only after doing so to herself, its progress
16 is sure to be rapid and success easy. In such a way,
17 we can liquidate the past entanglement between China
18 and Japan and restore the present devastation of war.
19 Furthermore, we can take the first step on the road
20 to co-existence and mutual expansion in the future.

21
22 "Why then do they refuse the peace proposals
23 and emphasize the continuance of resistance? We must
24 be aware of the fact that from the beginning of our
25 resistance, both our military forces and the people
had already demonstrated that our full national

1 consciousness cannot be worn down. However, on the other
2 hand, we must be aware of the fact that this national
3 consciousness is being entirely utilized by the Communist
4 Party. It is a matter of course to the Communist Party
5 to utilize national consciousness and to exterminate
6 a race and ruin a state under the pretense of defending
7 that national consciousness. For the Communists do not
8 fundamentally know the existence of the so-called race or
9 state but only know how to receive orders from the
10 Comintern and victimize China. Therefore the greater the
11 victimized area and the greater the number of people
12 preyed upon and the longer the victimized time becomes
13 the more they'll like it. In such a way everything in
14 China will be preyed upon and Japan will also be unable
15 to exempt herself from incurring substantial losses.
16 To the Comintern it is really killing two birds with
17 one stone. It goes without saying that they want to
18 capture Chiang and make him a puppet and revenge to
19 their hearts content Chiang's hate for Communism since
20 1927. After taking full vengeance, they will naturally
21 return to Russia without any feeling of regret. For
22 this reason, they earnestly preach resistance to the
23 end though we have been given several chances to restore
24 peace. Therefore, China will be permanently unable to
25 attain peace and will forever be compelled to be a

1 scape-goat of the Comintern. In short the crime of
2 those who are utilized by the Communist Party is above
3 the stout hearted persons. There are loyal and brave
4 troops and citizens now but even then the best they
5 can perform is some deeds of patriotism like Nieh Shi-
6 chang's. We can never avert the imminent doom. We
7 may be able to save the situation to a certain extent
8 if we learn to act like Liu Kun-i and Chang Chih-tung
9 who made secure South East China and also Li Hung Chang
10 who bravely entered Peking at the risk of his life and
11 successfully concluded peace negotiations under the
12 bayonets of eight allied forces.

13 "I see two roads opened before our eyes today.
14 one way is to follow Chiang and continue resistance.
15 However, Chiang's present military strength will be
16 insufficient not only to resist Japan but also to
17 suppress the Communist Party. Moreover, in his present
18 state of mind, even though he desires to, Chiang is
19 unable to refrain from pursuing the Communist Party.
20 Consequently this will only lead to our state and
21 people becoming victims of the Communists. The other
22 way is to sever relations with Chiang and to explain
23 further and practice further the dying wish of the late
24 President Sun and furthermore to endeavour to be a friend
25 instead of an enemy of Japan based on the fundamental

1 principles of 'better to become friends than to become
2 enemies'. The first step will restore peace between
3 China and Japan and the second step will establish peace
4 in the East. Of these two paths the former will lead
5 our country to ruin and exterminate our race and the
6 latter will restore China and East Asia. I am determined
7 to advance toward the road which will lead to the
8 restoration of China and the East. I am determined to
9 unite with my fellow thinkers and sympathizing officers
10 of every faction and party of the country and non-
11 faction and non-party and proceed hand in hand with
12 them towards this goal."

13 I now offer in evidence defense document
14 No. 929. This is a circular telegram broadcast by
15 Wang Ching-wei from Shanghai throughout China on
16 September 1, 1939, the name Wang Chiao-Ming being
17 another Chinese name for Wang Ching-wei. The record
18 of this telegram is taken from the book "Sharing Our
19 Fate;" the words "Dosei-Kyoshi" being the Japanese
20 title for that book. In it Wang Ching-wei reports
21 to China his recollection of his conference with
22 Premier HIRANUMA as well as other matters.

23 THE PRESIDENT: Are you offering many of
24 these, Major Furness?

25 MR. FURNESS: Yes, I am, sir.

1 THE PRESIDENT: One or two should be sufficient.

2 MR. FURNESS: Counsel for the defense, particu-
3 larly Japanese counsel, feel that they are most important
4 and that they should be offered because they show the
5 progress of the movements and the basis on which
6 they were -- on which they grew.

7 THE PRESIDENT: A glance through this suggests
8 mere repetition of the first two speeches. And this
9 last one is five years earlier than the previous speech.

10 MR. FURNESS: That is an error of typing to
11 which I should have called attention. It is September 1,
12 1939.
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1 THE PRESIDENT: There is only two months
2 difference between the speeches. We are getting
3 restless under this barrage of speeches of the kind
4 all on the one note. It is suggested you just tender
5 them without reading them where they are similar
6 as they obviously are.

7 MR. FURNESS: I will try to do that, sir,
8 and I will have the Japanese counsel go through them
9 again and try to weed them out so as to follow the
10 Court's desire.

11 Shall I read the recommendation of Wang
12 Ching Wei Conference with Premier HIRANUMA?

13 CLERK OF THE COURT: Defense document No.
14 929 will receive exhibit No. 2592.

15 THE PRESIDENT: Admitted on the usual terms.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2592 and received in evidence.)

19 MR. FURNESS: I shall then read only that
20 paragraph and later if Japanese feel that other
21 paragraphs should be read I will submit them to the
22 Court. This is the last paragraph of the document
23 beginning "I visited Tokyo--" The English page is
24 page 4.
25

"I visited Tokyo last June to exchange views

1 with the Japanese authorities. Premier HIRANUMA
2 blamed the Versailles Treaty for being full of a
3 sense of a sense of superiority of the victorious
4 countries and utilitarian views, which later caused
5 the present European War. As a result, the League
6 of Nations, where the treaty was organized, has ended
7 in failure. He said that Japan assumed a moral attitude
8 instead of an utilitarian attitude towards the present
9 peace terms and that Japan wished to share joys and
10 sorrows with China thoroughly discarding a sense of
11 superiority and that it was the fundamental condition
12 for the establishment of everlasting peace in the
13 Orient. His speech was full of kindness and sincerity.
14 Though there have been several changes of the cabinet
15 since the KONOYE Statement, Japan's policy has not
16 been altered. This is indeed of imperative necessity.
17 We must take a wide view of the general situation
18 of east Asia, look deep into its origin, grasp the
19 truth of the fact and endeavour to overcome the
20 difficulties of the present great work. It is really
21 regrettable that I could not successfully settle the
22 incident. But I am firmly determined to do my best
23 to save our country, closely cooperating with our
24 friends and leading men of all parties and all classes
25 with a hope of realizing a constitutional government.

1 I will discharge my duties in answer to the trust of
2 my friends, the late president and predecessors."

3 I next offer in evidence defense document
4 No. 930. This is a telegram sent by Wang Ching Wei
5 to his former comrades in the Chungking Government,
6 urging that peace be made in East Asia with Japan
7 and stating that China should not depend on other
8 countries. He states that if there is a sincere desire
9 for peace on the part of China, peace may be made
10 at advantageous terms.

11 THE PRESIDENT: Admitted on the usual terms.
12 I think you have told us what it is about. It is
13 hardly necessary to read it, Major Furness.

14 CLERK OF THE COURT: Defense document 930
15 will receive exhibit No. 2593.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2593 and received in evidence.)

19 MR. FURNESS: I now offer in evidence
20 defense document No. 931 which is a statement appearing
21 in the compilation "Sharing Our Fate." Here again,
22 on September 21, 1939, Wang Ching Wei requests the
23 cooperation of the Provisional and Restoration
24 Government in negotiating peace with Japan.

25 THE PRESIDENT: Admitted on the usual terms.

1 MR. FURNESS: I would like to read that.
2 It is rather short in its direct appeal to two of
3 the Provisional Governments with regard to making
4 peace. It is a short one-page document.

5 THE PRESIDENT: Yes, read it.

6 CLERK OF THE COURT: Defense document 931
7 will receive exhibit No. 2594.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 2594 and received in evidence.)

11 MR. FURNESS: (Reading)

12 "The Request for Cooperation made by Wang
13 Ching-wei to the Provisional and the Renovation
14 Governments (Sep. 21, 1939, Shanghai).

15 "Since the outbreak of the Lukouchiao
16 Incident, the National Government has failed in
17 military operations, and abandoned Peiping, Nanking,
18 and other cities one after another. Consequently,
19 China has been politically broken up and the people
20 have no government to rely upon. Mr. Wan Shu-lu
21 (Mr. Wan Ko-min), Mr. Liang Chung-i (Mr. Liang Hung-
22 chih), and others, at the risk of their lives during
23 these days of disturbances, have organized governments
24 successively, and negotiated peace with Japan. Owing
25 to their efforts, the people have been able to barely

1 continue their existence, though they are wandering
2 about in dire want. Their (Wan and Liang) diligent
3 effort has been known to everybody. As the National
4 Government had decided to continue hostile action
5 against Japan at that time, it could not but regard
6 these measures as contrary to its policy, but under
7 the present situation the peace movement has become
8 the national policy of urgent necessity. The Sixth
9 Mass Meeting of the Chinese Nationalist Party has
10 recently declared to the people the policy for
11 'peace, anti-Communism and establishment of a new
12 state', and has announced in a polite manner that,
13 'the Nationalist Party sincerely wishes to cooperate
14 with the kindred spirits from all China, regardless
15 of their parties, and to share the responsibility
16 of saving the situation.' It is quite natural that,
17 in order to fulfil this important mission, the
18 Nationalist Party should cast away all prejudices
19 against the existing governments and overcome the
20 present difficulties by joint wisdom and combined
21 effort. Among the leaders of the existing governments,
22 Mr. Wan Shu-lu, when he held office in the National
23 Government, devoted himself to the affairs of state
24 rendered distinguished services, and contributed much
25 to the welfare of our country. As for Mr. Liang

1 Chung-i, although he has hitherto stood aloof from
2 government offices, I believe he has an eager desire
3 to save our country and our race out of the crisis
4 and secure their safety, assuming the mantle of Mr.
5 Tuan Chih-chuan, who rendered distinguished services
6 to the Republic of China and showed an affectionate
7 feeling towards the National Government. I have been
8 empowered by the general meeting the right 'to request
9 all intelligent people of the country to participate
10 in the organization of the Central Political Commission.'
11 Since then, for more than ten days, I have repeatedly
12 and with sincerity consulted with Mr. Wan and Mr.
13 Liang about the actual measures to save the situation,
14 and have obtained a complete understanding and whole-
15 hearted approval. I firmly believe that we can
16 henceforth make combined efforts for the realization
17 of peace and the establishment of constitutional
18 government, I am very pleased of it."

19 I now offer in evidence defense document
20 No. 932. This also is a statement dated September
21 22, 1939, which appears in the book, "Sharing Our
22 Fate." It is the official statement of the Renovation
23 Government at Nanking from which it appears that that
24 Government agreed with the policies advocated by
25 Wang Ching Wei.

THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Defense document 932
2 will receive exhibit No. 2595.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 2595 and received in evidence.)

6 MR. FURNESS: Since it is an official state-
7 ment rather than a speech, I would like to read it.

8 "THE STATEMENT OF THE RENOVATION GOVERNMENT
9 "(September 22, 1939. Nanking)

10 "It is one of the bad results of the policy
11 of pro-Comintern and anti-Japan of the Chungking
12 Government that since the incident of August 18,
13 Shanghai and Nanking were successively made defenseless
14 and all the people in these three provinces, Chiangsu,
15 Chechiang and Anhui have been reduced to the vagrant
16 and most wretched condition. Intelligent persons
17 have long deplored the fact and one year has already
18 passed since we, designing to relief the people through
19 fire and water, organized the Renovation Government
20 to attain our object with utmost strength. Now every-
21 where order has become settled step by step, commun-
22 ication has restored and they are on the way of
23 prosperity both in agricultural and commercial
24 districts. Moreover, we have tried to root out the
25

1 evil of the Communist Party and made every effort for
2 establishing the foundation of peace in the East.
3 Mr. Wang Ching-wei who got out of Chungking at the
4 risk of his life has once and again announced his
5 statements of relieving China through peace and wanted
6 to fix the national policy in the sincere talks with
7 wise men of the country without regarding their
8 political colors. Accordingly, many persons from
9 all directions have assembled before Mr. Wang like
10 echoes to his statement. Mr. Wang's opinion lies
11 in it that the situation will certainly be saved with
12 ease if we go ahead driving out the intrigues of the
13 Communists and practising fair and square administration
14 on the basis of the statement of Japan's Ex-Premier
15 KONOYE with which the peace-loving persons of this
16 country are thoroughly agreed. Eagerly though we
17 hope the same, we cannot yet fulfil the desire, but
18 since Mr. Wang has for his life taken the responsibility
19 for its realization the everlasting peace between
20 China and Japan will easily be realized. We will
21 accomplish our noble work through strenuous exertion
22 in cooperation with him according to our first aim
23 of relieving this country. This is indeed not only
24 our long-cherished desire but also the original
25 intention of the Renovation Government. Hereby we

1 announce the above."

2 I next offer in evidence defense document
3 933. This is a statement by the Provisional Govern-
4 ment of Peking in which it states that said government
5 agrees with Wang Ching-wei's policy advocating
6 a negotiated peace with Japan.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document
9 933 will receive exhibit No. 2596.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 2596 and received in evidence.)

13 MR. FURNES: I should like to read that as
14 it is an official document.

15 "The Statement of the Provisional Government
16 "(September 23, 1939. Peking)

17 "Since the successive fall of the respective
18 Northern provinces, our government has lost its basis
19 and the people have no place to turn to. We and our
20 comrades could not remain indifferent to the situation
21 and mustering men under one banner, have established
22 the Provisional Government. What is meant by the
23 so-called term 'provisional' is most obvious. The
24 reason why the government has not yet selected a chief
25 executive is because of a desire to get a person

1 announce the above."

2 I next offer in evidence defense document
3 933. This is a statement by the Provisional Govern-
4 ment of Peking in which it states that said government
5 agrees with Wang Ching-wai's policy advocating
6 a negotiated peace with Japan.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document
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20 comrades could not remain indifferent to the situation
21 and mustering men under one banner, have established
22 the Provisional Government. What is meant by the
23 so-called term 'provisional' is most obvious. The
24 reason why the government has not yet selected a chief
25 executive is because of a desire to get a person

1 of wisdom and ability for its leader that the Govern-
2 ment still leaves the honourable position in vacancy.
3 Fortunately with the aid of and in cooperation with
4 our friendly nation, Japan, we have arisen newly as
5 much as we have today. To read the words of excessive
6 praise for we comrades of this government the estimable
7 statement announced by Mr. Wang Ching-wei, we are
8 indeed overwhelmed with shame. The fact that the
9 nation faces a national crisis is as seen above while
10 the suffering of the people has not yet ceased.
11 Our desire will be satisfied if only we shall be
12 able to gain peace. There ~~is~~ **absolutely** no doubt about
13 it. In this we announce our real intention."

14 I now offer in evidence defense document
15 936, which is also a speech appearing in the com-
16 pilation "Sharing Our Fate." The speech is made by
17 Chou Fuo-Hai in Shanghai, December 9, 1939. In it
18 he states the object of the establishment of the New
19 Government of which he later became Finance Minister.
20 It shows that this regime was not to be a puppet
21 government but was to be independent and free from
22 restraint. It shows finally that it accepted
23 cooperation with Japan on its own terms.

24 THE PRESIDENT: I think you have given us
25 an excellent summary of it and we might well be

1 satisfied with that, Major.

2 MR. FURNESS: I do not intend to read it,
3 your Honor, but merely ask it to be accepted into
4 evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document
7 936 will receive exhibit No. 2597.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 2597 and received in evidence.)
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1 I next offer in evidence defense document
2 940. This is a speech by Lin Pai-Sheng made on
3 the 22nd January 1940 at Tsingtao. It appears in
4 the book "Sharing our Fate". It outlines the events
5 leading up to the formation of the new Nationalist
6 Government which was formed about two months later.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document
9 No. 940 will receive exhibit No. 2598.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 2598 and received in evidence.)

13 MR. FURNESS: Since it outlines the events
14 I do wish to read this one, if your Honor please.

15 "The progress of the Peace Movement. (LIN
16 PAI-Sheng).

17 (January 1, 1940, Tsingtao) It should be
18 January 22nd, not January 1.

19 "I. Advocacy of Peace.

20 "When China in the First European War was
21 implored by the British Empire to participate in war
22 Dr. Sun Wen, the then President of the Kuomintang,
23 declared that China had no duty to help Britian and
24 that the country with whom China had to cooperate was
25 firstly Japan and secondly America. Later on his

1 visit to Kobe, Japan, he made his famous speech re-
2 garding the Greater Asiatic principle. In the light
3 of these deeds of his, the enduring and unchangeable
4 policy of the Kuomintang under any international
5 situation is nothing but the Sino-Japanese cooperation.
6 The true successor to and practitioner of this faith and
7 policy of Dr. Sun Wen is Wang Ching-Wei. In the
8 course of expansion of the Manchurian Incident he
9 concluded the Shanghai Armistice Treaty, the DOHIHARA
10 Chin-Te-chun Agreement, the UMEZU-Ho Ying-ho Agree-
11 ment, etc. in the capacity and responsibility of the
12 Chairman of the Executive Committee and the Foreign
13 Minister. At that time his intention lay in it to
14 bring an entire and eternal peace beginning with the
15 security of local and temporary nature and at last to
16 establish an everlasting peace in the East. The re-
17 rious opinion of patriotism of this kind was encount-
18 ered by a violent attack of criticism and as a result
19 Wang was compelled to quit his position to go out of
20 the country. In such a way the movement for peace
21 has been deserted since Wang's exile and China has
22 been dyed with one color of anti-Japan in which the
23 people began to play an important role. The situation
24 has grown to the worst when the Communist party
25 adopted the blindfold anti-Japanese policy as its

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20 the country. In such a way the movement for peace
21 has been deserted since Wang's exile and China has
22 been dyed with one color of anti-Japan in which the
23 people began to play an important role. The situation
24 has grown to the worst when the Communist party
25 adopted the blindfold anti-Japanese policy as its

1 last resort.

2 "2. Continuance of the furtive movement.

3 "Toward the time of urgent return of Wang
4 Ching-wei who heard of the outbreak of the Sian In-
5 cident on board the ship for Europe and was re-
6 quested to go home by his comrades, the situation in
7 China has grown irretrievably worse. Wang Ching-wei
8 believed that the Sino-Japanese War would result in
9 the defeat on the part of China and cause the decline
10 even of the victorious Japan on account of her great
11 war expenditure. Consequently, it would become im-
12 possible for the East to shake off the yoke of Europe
13 and America and especially China would inevitably
14 fall to the position of a colony of the West, he
15 thought. Already in those days a campaign for peace
16 centering around Wang Ching-wei was being carried on,
17 although furtively. In March 1938 when the China
18 Incident entered its really active period those per-
19 sons such as Chou Fuo-kai and Mei Shi-ping, fathering
20 together young civilians in the Ministry, with the
21 object of rejecting the principle of anti-Japan,
22 actualizing the peace with Japan and saving the whole
23 situation for the establishment of the New East, suc-
24 ceeded in establishing communications with comrades
25 in Japan who gave China their word that they would

support the movement with positive willingness.

1 "3. Escape from Chungking.

2 "With successive defeats in battles Wang
3 Ching-wei removed from Nanking to Hangkow and from
4 there to Chungking. In the meantime he had come to
5 know the fact that militaristic dictators utilizing
6 for themselves interests of the nation and the people
7 could make no volte-face, so that he resolved to come
8 out of the capitol to advocate peace openly out of
9 the influence of the Government, in the hope of es-
10 tablishing an everlasting peace in the East through
11 peace conference and promotion of friendship between
12 Japan and China. In December 1938 he got out of
13 Chungking and came to Hanoi where on the 29 of the
14 month he announced a statement to explain his opinion
15 that he recognized the statement concerning the ad-
16 justment of the Sino-Japanese relations delivered by
17 by Premier Konoe on December 22 not to be a dangerous
18 one that would lead China into ruin. Since then he
19 had stayed at Hanoi assiduously applying himself for
20 larger expansion of the movement throughout the
21 country until he came to aware of the danger of his
22 longer stay when his right-hand man Tseng Chung-ming
23 was assassinated as a victim of more and more terrible
24 oppression on the part of Chungking. He left Hanoi
25

1 on April 25, 1939, and on May 8 arrived in Shanghai
2 for the base of his work."

3 I will not read 4 because it outlines the
4 visit to Japan, which has already been well taken
5 care of.

6 "5 Vigorous Activities.

7 "On his way home Wang Ching-wei visited
8 Peiping to talk with some important men of the Pro-
9 visional Government such as Wang Ko-min, and in
10 Shanghai he had a conference with Liang Hung-chih and
11 other important men of the Renovation Government. In
12 both occasions the issue was the same thing concerning
13 the establishment of a central government for which
14 he promised to make efforts with them. A war of
15 active propaganda was started by means of radio and
16 the newspaper Chunghwa jihpao (Daily China), the pub-
17 lication of which resumed in Shanghai on the seventh
18 day of July. Subsequent to that he came to Kwangtung
19 where he was engaged in activities in South China and
20 in the South Seas till he left the Southern City on
21 August 14 for Shanghai.

22 "6. The Sixth National Congress.

23 "Newly born comrades of the Kuomintang
24 under the leadership of Wang Ching-wei convoked the
25 Sixth National Congress of the Kuomintang on August

1 28 in Changhai. They revised the platform of the
2 party, fixed their administrative and diplomatic
3 principles and announced those important policies
4 as follows:

5 "(a) Peace. The present Sino-Japanese
6 War reached to its worst situation in which the more
7 prolongation cannot be admitted. China will be ruined,
8 losing her power of holding out. Even Japan will not
9 be free from the decline of her national strength.
10 We must therefore establish a foundation of peace and
11 tide over and recover from this critical point of our
12 country as well as of the war. We shall carry it
13 out with the positive diplomacy as an independent
14 national state.

15 "(b) Anti-Comintern: The society and civil-
16 ization of the East do not allow the existence of the
17 Communist party there. In view of the social condi-
18 tions in China, we cannot lead the country along the
19 way for construction and prosperity until we can root
20 out the invasion of communism. This is a common ob-
21 ject of both China and Japan between whom cooperation
22 is much required in mind and thought.

23 "(c) Reconstruction of the Party:

24 "Under the oppression of the two evil in-
25 fluences of militaristic dictatorship and the communist

1 party, members of the Kuomintang has lost their
2 liberty and the party itself has been split into
3 petty factions without unification. If the situation is
4 left as it goes, the Kuomintang, entirely losing its
5 function and becoming incapable to take the responsibility
6 for restoring peace, will face the danger of ruin
7 with the dictator of the party. It is a requisite
8 condition to recover the party from that state. The
9 only way of our reconstructing the party is necessarily
10 to strengthen solidarity of newly born comrades on the
11 San-min principle under the leadership of a newly born
12 leader of the party, Wang Ching-wei, and to concentrate
13 their joint power into executing right and correct
14 political programs of the party and at the same
15 time to advance along the true course of the party.
16 As for the San-min principle, it must follow the progress
17 of time and also be revised so as to fit in with
18 the point of late Dr. Sun-Wen. The Kuomintang must,
19 rejecting factionalism and militaristic dictatorship,
20 save the situation in cooperation with any other party
21 of the same opinion with it and, although esteeming
22 position of every party in the period of tutelage,
23 the party must lead the people to bring the period of
24 constitutionalism as soon as possible.

25 "(d) Foundation of the State.

1 "This is an only object of the whole China
2 Reconstruction of the party is carried out for the
3 object of giving the party enough power to fulfil the
4 responsibility for it. Peace and anti-Comintern is
5 to smooth the highway for this great work removing
6 all obstructions. It is our goal to establish a
7 modern state according to the San-min principle where
8 the nation can enjoy independence and liberty, de-
9 mocracy is diffused completely and universally and
10 the people's livelihood is comfortable and wholesome.
11 For this purpose Wang Ching-wei has been newly ap-
12 pointed to be Chairman of the Control Executive Com-
13 mittee and we ordered dissolution of the Chungking
14 counterfeit Kuomintang which had been usurped by the
15 Communist party. And on September 5 in the First Cen-
16 tral General Conference of the Execution Inspectorial
17 Committee (The First Government Conference) and the 6th
18 National Congress of the Kuomintang, we settled our
19 policies concerning organization and propaganda of the
20 party and some other items and discussed what to pre-
21 pare on the part of the Kuomintang for the coming
22 Central Political Conference in which all parties
23 and factions will jointly talk over the establishment
24 of the new Central Government. Necessary items for
25 the Kuomintang itself reached a settlement in the

1 Sixth National Congress and the First General Confer-
2 ence. Consequently, the Kuomintang was reorganized
3 to be the pure Kuomintang as one of big generative
4 powers of forming the new Central Government.

5 "7. The Nanking Conference.

6 "From September 19 to 21, Wang Ching-wei met
7 in conference with Wang Ko-min and Liang Hung-chih
8 to consult about convening the Central Political Con-
9 ference and arrived at a full agreement. The communi-
10 cation of any party or faction with the Kuomintang
11 and the National Socialist party smoothly progressed.
12 Politicians, industrialists, educationist and so on
13 took part of the movement. Successively there ap-
14 peared several men of importance even in the Chungking
15 Government to collobarate with us and most of its
16 Army corps sent persons to keep in touch with Wang.
17 These facts show us evidently that how earnestly
18 the four hundred million people in China are favor-
19 able to the peace movement of Wang Ching-wei."

20 I shall not read -- I shall skip to para-
21 graph 8.

22 "The Tsingtao Conference.

23 "On the occasion of the formation of the ABE
24 Cabinet, Wang Ching-wei sent Chou Fuo-hai to Tokyo
25 on October 2 to communicate with the central author-

1 ities of Japan. Chou who had a talk with distin-
2 guished government members several days in succession
3 returned home in high spirits making sure again of
4 the immorable resolution of the Japanese Empire.
5 After that we arrived at an agreement on various
6 items concerning the establishment of the Central
7 Government after the consultation with the Japanese
8 Government. As a result, arrangements concerning
9 convening the Central Political Conference will be
10 made this time summoning high officials of the Pro-
11 visional Renovation Governments and representatives
12 of Mongolian areas."

1 THE INTERPRETER: Mr. Furness.

2 MR. FURNESS: Yes.

3 THE INTERPRETER: The latter part of paragraph
4 1 and all of paragraph 2, and the first part of
5 paragraph 3 were not heard by Japanese listeners
6 due to very poor reception. It will be given over
7 the Japanese channel again if you so desire.

8 THE PRESIDENT: Did the accused hear it?

9 THE INTERPRETER: I think not, sir.

10 THE PRESIDENT: They must hear everything
11 so we will wait until they do.

12 MR. FURNESS: I now offer in evidence defense
13 document 937, a speech made by Chen Kung-po who
14 became chief of the legislative board when the new
15 government was formed about 2 months later. In it
16 he outlines China's desire for peace with Japan.
17 I shall not read this speech but merely tender it in
18 evidence.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Defense document 937
21 will receive exhibit No. 2599.

22 (Whereupon, the document above
23 referred to was marked defense exhibit
24 No. 2599 and received in evidence.)

25 MR. FURNESS: I now offer in evidence defense

1 document 938 which is also from the book, "Sharing
2 Our Fate," This is an open telegram dated January
3 16, 1940, from Wang-Ching-wei to Chiang-Kai-shek
4 in which he urges that China make peace with Japan
5 now that Japan's intentions are clear.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 938
8 will receive exhibit No. 2600.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 2600 and received in evidence.)

12 MR. FURNESS: I would like to read this one.
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1 "At Shanghai, on January 16, 1940:

2 "Although Chao-ming (T.N. Wang Ching-wei)
3 had made a proposal, on December 24, 1938, to the
4 effect that a permanent peace of Eastern Asia be es-
5 tablished by adjusting Sino-Japanese relations based
6 on KONOYE Statement of Japan, it was not adopted
7 unfortunately. But Chao-ming has strived to achieve
8 the peace movement regardless of many difficulties
9 and sacrifices tying up with my comrades some of
10 whom successively lost their lives discussing with
11 the Japanese people both in and out of office by
12 bona fides to find out plans for peace, I have de-
13 voted myself for one year to cleaning up the past
14 complications in order to realize a hope for the
15 future.

16 "Of course, I understand that it is extreme-
17 ly difficult to get such a plan for peace as will
18 satisfy the people under the present circumstances.
19 But fortunately both China and Japan, considering
20 the future of Eastern Asia, understanding and con-
21 ceding mutually, have already established the base
22 of the peace program. This plan will not only force
23 upon China no such a condition as to ruin the state
24 but will also enable us to maintain the independence
25 and freedom of China and even to accomplish the es-

1 tablishment of 'Three People Principle' only if we
2 devote ourselves to complying with the purport of
3 the plan. (T.N. Three-People Principle is Dr. Sun
4 Yat-sen's Principle.) Here I would like to present
5 you a few words again as a result of my sincere and
6 thorough deliberation.

7 "The domestic circumstances and internation-
8 al situation are now such that the final victory
9 doomed hopeless despite further continuance of re-
10 sisting warfare, and the people all over the country
11 are longing for peace. This is just what you are
12 well aware of and not as much explanation would be
13 required. But the realization of prompt and wide-
14 scale peace would be possible only by the united
15 efforts of all the people.

16 "As to the question concerning the with-
17 drawal of armies, the Chinese people undoubtedly
18 desire the prompt evacuation of Japanese troops and
19 even Japan is not supposed to wish to exert her
20 soldiers any longer in a foreign land under such
21 condition as exist. But how can you pave the way
22 for the solution of the problem regarding the with-
23 drawal of armies if you stick to the continued re-
24 sistance?

25 "Especially from the viewpoint of economic

1 tablishment of 'Three People Principle' only if we
2 devote ourselves to complying with the purport of
3 the plan. (T.N. Three-People Principle is Dr. Sun
4 Yat-sen's Principle.) Here I would like to present
5 you a few words again as a result of my sincere and
6 thorough deliberation.

7 "The domestic circumstances and internation-
8 al situation are now such that the final victory
9 doomed hopeless despite further continuance of re-
10 sisting warfare, and the people all over the country
11 are longing for peace. This is just what you are
12 well aware of and not as much explanation would be
13 required. But the realization of prompt and wide-
14 scale peace would be possible only by the united
15 efforts of all the people.

16 "As to the question concerning the with-
17 drawal of armies, the Chinese people undoubtedly
18 desire the prompt evacuation of Japanese troops and
19 even Japan is not supposed to wish to exert her
20 soldiers any longer in a foreign land under such
21 condition as exist. But how can you pave the way
22 for the solution of the problem regarding the with-
23 drawal of armies if you stick to the continued re-
24 sistance?

25 "Especially from the viewpoint of economic

1 construction, although the people have already been
2 impoverished and no doubt they have exhausted all
3 their wealth, the restoration of national power and
4 people's strength may be still easy if the truce and
5 peace are made at the present opportunity. Other-
6 wise, if the present waste continued it would result
7 in the entire loss of the people's wealth which will
8 inevitably lower the national power, and consequently
9 it will become impossible to effectuate the economic
10 construction.

11 "Even if you decline my proposal consistent-
12 ly, I, Chao-ming, cannot take it into my considera-
13 tion since I am already strongly determined to re-
14 lieve the country. It will necessarily force me to
15 devote myself to concluding a localized peace at
16 first and then reach a country-wide peace.

17 "If you attach great importance to the
18 matter of national welfare, decide on a great plan
19 determinedly and seek to carry it out along in line
20 with the principle of the KONOYE Statement after
21 making truce and peace with Japan, Chao-ming and his
22 comrades are sure to cooperate with you in realizing
23 prompt peace of all the country. Strictly speaking,
24 this is indeed a matter upon which the fate of the
25 nation and the race depends. At present you are,

1 at Chungking, enjoying the supreme power and are in
2 such a position as to enable you to decide on a plan
3 for peace or war by your single word.

4 "As I recognize the deep responsibility upon
5 you, I have to demand of you so much. I dare convey
6 to you my frank and sincere words, to which your
7 respectful reply shall be much appreciated."

8 THE PRESIDENT: We will recess for fifteen
9 minutes.

10 (Whereupon, at 1045, a recess was
11 taken until 1100, after which the proceed-
12 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Furness.

4 MR. FURNESS: I now offer in evidence defense
5 document 939. This is a statement made by Wang Ching-wei
6 on January 24, 1940, in which he sets forth the princi-
7 ples under which the new Central Government is to be
8 formed, particularly that there should be no one party
9 system, but that the government should include men
10 from all legal political parties.

11 I do not intend to read this document but
12 merely offer it in evidence.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document 939 will
15 receive exhibit No. 2601.

16 (Whereupon, the document above re-
17 ferred to was marked defense exhibit No. 2601
18 and received in evidence.)

19 MR. FURNESS: I now offer in evidence defense
20 document 942. This is also taken from "Sharing our Fate".
21 It is an important announcement by Lin Pai-sheng, dated
22 March 18, 1940, regarding the proposed organization of
23 the new Central Government and its policies. Lin Pai-
24 sheng became commissioner of the Central Political Con-
25 ference which was formed at the end of March 1940.

1 I do intend to read this document as it is an
2 important one.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 942 will
5 receive exhibit No. 2602.

6 (Whereupon, the document above re-
7 ferred to was marked defense exhibit No. 2602
8 and received in evidence.)

9 MR. FURNESS: (Reading) "(March 18, 1940.
10 Nanking)

11 "1. ORGANIZATION OF THE NEW CENTRAL GOVERNMENT.

12 "The new Central Government succeeds to the
13 political traditions of the former National Government.
14 However, while the former National Government and its
15 five 'Yuan' bear responsibility to the Central Executive
16 Committee of the Kuomintang, the new Central Government
17 is responsible to the Central Political Council. More-
18 over, in accordance with the experience gained in the
19 last ten years and more, reform has been effected in
20 the government machinery of five 'Yuan' and seven Depart-
21 ments hitherto in operation, thereby demarcating more
22 distinctly the powers of the Party and the Government.

23 "2. APPOINTMENT OF PRESIDENT OF THE NEW GOVERN-
24 MENT, PRESIDENTS OF YUAN AND MINISTERS.

25 "Presidents of Yuan and Ministers are appointed

1 simultaneously with the formation of the Government.

2 They are selected by the Central Political Conference
3 and appointed by the National Government.

4 "3. FORMATION OF THE NEW GOVERNMENT AND
5 DISSOLUTION OF THE PROVISIONAL AND RESTORATION GOVERNMENTS.

6 "The time of the formation of the new Government
7 will be fixed by the Central Political Conference. Aboli-
8 tion of the names of the Provisional and Renovation Gov-
9 ernments will be carried out after the close of the
10 Conference and before the coming into existence of the
11 new Government.

12 "4. TERMS OF PEACE BETWEEN JAPAN AND CHINA.

13 "The so-called Kao Tsung-wu and Tao Hsi-sheng
14 statement which was published sometime ago does not
15 convey the truth. The true facts will be made clear
16 by the concrete policy to be taken by the Government.
17 The plans for peace are one thing and the terms of
18 peace another. The plans for peace are but an expedient
19 for the restoration of diplomatic relations. The state-
20 ments by Wang Ching-wei and Premier YONAI clearly point
21 out what the peace plans are. We have taken a firm stand
22 which can never be swayed by propositions made by a few.
23 By this stand we mean the establishment of a new order
24 in East Asia. If Japan and China do their utmost with
25 whole-hearted sincerity, they will surely be able to

1 establish an everlasting peace. Future facts will prove
2 this.

3 "5. ORGANIZATION OF THE CENTRAL POLITICAL
4 CONFERENCE.

5 "The Conference consists of thirty members,
6 and Mr. Wang Ching-wei, President of the Kuomintang,
7 will be appointed its Chairman. The thirty-one members
8 comprise those members of the Kuomintang Central Executive
9 and Supervisory Committees who are nominated speci-
10 fically by President Wang, delegates of the Provisional,
11 Restoration, and Mongolian Governments, representatives
12 of the National Socialist Party and the Chinese Young
13 Men's Party, and some persons of social renown and popu-
14 larity, all of whom are to be invited by President Wang.

15 "6. RELATIONSHIP BETWEEN THE NEW CENTRAL
16 GOVERNMENT AND THE KWANGTUNG AND WU-HAN GOVERNMENTS.

17 "The Kwangtung and Wu-Han Governments send no
18 delegates to the Conference, but an observer from each
19 Government will attend it. The problem of provincial
20 governments should be decided by the establishment
21 of the Central Government.

22 "7. THE CENTRAL POLITICAL CONFERENCE AND THE
23 CENTRAL POLITICAL COUNCIL.

24 "After performing its function of establishing
25 the new Central Government, the Central Political

1 Conference will be reorganized into the Central Political
2 Council. The Central Political Conference is of a tem-
3 porary nature, for it is held for the express purpose
4 of saving the situation. In contrast to this, the Cen-
5 tral Political Council is of a permanent nature, as
6 it is to be the supreme organ for directing government
7 in future. The Central Political Conference is com-
8 posed of the representatives of existing regimes and the
9 Mongolian Autonomous Government and other governments
10 with the Kuomintang playing the leading part. But as
11 those regimes and governments are to be reorganized
12 at the same time with the establishment of the new
13 Government, those who represent such regimes and govern-
14 ments are no longer representatives of these old regimes
15 and governments in the Central Political Council.
16 Legally, the Council is formed with members of the Kuo-
17 mintang Central Executive and Supervisory Committees
18 and legitimate political parties, and persons of social
19 renown and popularity. It is another question whether
20 or not the personnels of the Conference and the Council
21 are the same.

22 "8. CHARACTER OF THE CENTRAL POLITICAL COUNCIL.

23 "The Central Political Council is not an organ
24 of the Kuomintang as its predecessor was. This revision
25 of organization is based on the resolution of the

1 Sixth Plenum of the Kuomintang held in August last
2 year. According to this, the Central Political Council
3 is organized by participation and cooperation of members
4 of political parties and factions and persons of social
5 renown with the Kuomintang playing the leading part.
6 The President of the Central Executive Committee of
7 Kuomintang is appointed the Chairman of the Council
8 and the members of the Council are nominated or called
9 by the chairman. This is the most legal institution
10 in the transition stage from political tutelage to
11 constitutional government.

12 "9. ESTABLISHMENT OF THE CONSTITUTIONAL
13 GOVERNMENT PREPARATION SOCIETY.

14 "The Constitutional Government Preparation
15 Society will be organized for the purpose of enforcing
16 constitutional government as soon as possible after
17 the formation of the new Government. At the recent
18 Tsingtao Conference they agreed to establish the Com-
19 mittee for the Enforcement of Constitutional Government.
20 Its mission is to deliberate on concrete plans for the
21 speedy enforcement of constitutional government. Con-
22 stitutional government should be realized through the
23 establishment of people's power by the principles of
24 democracy as advocated by Sun Wen. Unless it is put in
25 operation, government becomes decadent and the country

1 will be in disorder."

2 I now offer in evidence defense document 941.
3 This is taken from "Sharing our Fate" and is a report
4 of the convening of a meeting for the formation of the
5 new government, and further states that its policies
6 should be to include representatives of both the
7 government then in existence and men from legitimate
8 opposing parties.

9 I do not intend to read this document.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 941 will
12 receive exhibit No. 2603.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 2603
15 and received in evidence.)

16 MR. FURNESS: I next offer in evidence defense
17 document 944, also taken from the book "Sharing our
18 Fate". This is a statement of the platform of the
19 New Government, issued March 30, 1940, the day on which
20 it was established.

21 It is an important document and I wish to read
22 it.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 944 will
25 receive exhibit No. 2604.

1 (Whereupon, the document above re-
2 ferred to was marked defense exhibit No. 2604
3 and received in evidence.)

4 MR. FURNESS: (Reading) "THE PLATFORM OF THE
5 NATIONAL GOVERNMENT.

6 "(March 30, 1940. Nanking)

7 "1. On the basis of a good-neighbor policy,
8 the Government seeks by means of peaceful diplomacy
9 the consummation and consolidation of the independence
10 of China's sovereignty and administration and assumes
11 a share of the responsibility for building an enduring
12 peace and a new order in the East.

13 "2. The Government has high respect for the
14 justifiable rights and interests of all friendly nations
15 The Government will govern relations with these nations in
16 such a way as to promote friendship.

17 "3. In concerted effort with all friendly
18 nations, the Government will check intrigues and all
19 other activities carried on by international communism
20 for disturbing peace.

21 "4. The Government will gather and stabilize
22 those soldiers and guerrillas that support the slogan
23 of 'establishing our state by peaceful means,' and will
24 organize a national defense army, clearly distinguish-
25 ing between the powers of military administration and

1 of military command in order to overthrow military dic-
2 tatorship.

3 "5. To encourage democratic government the
4 Government will establish organs for the expression
5 of public opinion from all classes, thereby bringing
6 together men of ability from all schools of public
7 thought all over the country.

8 "6. The Government will convene the National
9 Congress and enact and execute a constitution.

10 "7. In collaboration with friendly nations
11 in capital and technique the Government aims at post-
12 war recovery of economy and development of industry.

13 "8. By encouraging foreign trade, the Govern-
14 ment will take measures to balance international revenue
15 and expenditure, and, at home, by establishing a
16 central bank the Government will standardize the mone-
17 tary system in order to stabilize the foundation of
18 monetary circulation among the people.

19 "9. The Government will regulate the tax
20 system, lighten the burden of the people, reconstruct
21 agricultural districts, and give relief to war sufferers
22 in order to make their lives easier.

23 "10. The Government holds anti-communism and
24 the peaceful establishment of our state as its educational
25 policy. It will make efforts to improve scientific

1 of military command in order to overthrow military dic-
2 tatorship.

3 "5. To encourage democratic government the
4 Government will establish organs for the expression
5 of public opinion from all classes, thereby bringing
6 together men of ability from all schools of public
7 thought all over the country.

8 "6. The Government will convene the National
9 Congress and enact and execute a constitution.

10 "7. In collaboration with friendly nations
11 in capital and technique the Government aims at post-
12 war recovery of economy and development of industry.

13 "8. By encouraging foreign trade, the Govern-
14 ment will take measures to balance international revenue
15 and expenditure, and, at home, by establishing a
16 central bank the Government will standardize the mone-
17 tary system in order to stabilize the foundation of
18 monetary circulation among the people.

19 "9. The Government will regulate the tax
20 system, lighten the burden of the people, reconstruct
21 agricultural districts, and give relief to war sufferers
22 in order to make their lives easier.

23 "10. The Government holds anti-communism and
24 the peaceful establishment of our state as its educational
25 policy. It will make efforts to improve scientific

1 education and abolish disorderly, frivolous schools."
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1 I next offer in evidence defense document
2 943. This is also taken from the book "Sharing Our
3 Fate." It is a declaration made by the new govern-
4 ment on the date of its formation, 30 March 1940, on
5 the return of the capital to Nanking. It tells the
6 reason for setting up the new government and the
7 policies which it intended to follow, peace with
8 Japan, constitutional government rather than dictator-
9 ship, and opposition to communism.

10 In view of the importance of the document,
11 I wish to read it.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Defense document 943 will
14 receive exhibit No. 2605.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 2605 and received in evidence.)

18 MR. FURNESS: (Reading) "As the National
19 Government has returned the Capitol to Nanking pur-
20 suant to the decision of the Central Political Coun-
21 cil, the Government hereby respectfully makes a frank
22 and open statement to the entire nation. The two main
23 policies, the realization of peace and the practice
24 of constitutional government have been duly decided
25 by the Central Political Council, and the National

1 Government swears to adhere strictly to, and will
2 endeavor to carry out, the said policies. The so-
3 called realization of peace is based on the principles
4 of cooperation with Japan, good neighborliness, a
5 common front against Communism, and economic cooperation.
6 It lies in removing all past complications so as to
7 establish friendly relations in the future; in nulli-
8 fying or modifying for certain the policies, laws, and
9 ordinances which were adopted formerly and are incom-
10 patible with the said policies; in endeavoring to
11 preserve our sovereign independence and freedom and
12 our administrative integrity; in practicing mutual
13 cooperation on an economic basis so as to establish a
14 foundation of co-existence and co-prosperity. China
15 and Japan have been the same as brothers from the
16 beginning. They once resorted unfortunately to arms,
17 but now that they have improved diplomatic relations,
18 they shall maintain peace forever, stabilize East Asia
19 in cooperation with each other and at the same time
20 keep faith with all friendly countries and strengthen
21 friendship with them on the basis of this policy of
22 peaceful diplomacy. Consequently, they should promote
23 friendly relations. As regards the so-called practice
24 of constitutional government, this has already been
25 provided for in the Declaration of the Fifth and

1 Sixth National Representative Congress of the Kuomin-
2 tang, and was also unanimously agreed to long ago by
3 the wise and able men of the whole country. Now that
4 all the postwar administrative structures are defunct,
5 a restoration is needed. The entire nation must con-
6 centrate its energies, both physical and spiritual, and
7 push on to complete the establishment of a modern state.
8 As the past system of dictatorship by an individual
9 has been an obstacle to the spiritual unity of the
10 entire nation, it must be corrected and removed with-
11 out fail. As the Communist Party excites class strife
12 and, especially, as it is an enemy of the nation and
13 the race, it must infallibly be stamped out and cor-
14 rected, permitting no remaining evil.

15 "As for the establishment of a representative
16 organ of all classes, the carrying-out of local
17 autonomy, the convening of the People's General Meet-
18 ing, and the enactment and promulgation of the Consti-
19 tution, these will be timely carried out to comply
20 with the wishes of the people of the whole nation.
21 The above-mentioned realization of peace and practice
22 of constitutional government are the greatest policies
23 to be followed by the National Government and at the
24 same time the greatest duty imposed upon the same.

25 "On the occasion of the return of the National

1 Government to the capitol, it is with great honor that
2 the government expresses infinite condolence and
3 respect to the soldiers who fell in the battlefields,
4 the victimized people and the many heroes who sacrificed
5 themselves for the sake of the peace movement. What
6 the National Government realizes first of all as its
7 own responsibility is to comfort the people after the
8 war, to guarantee their lives, properties and freedom
9 by laws of the State, to give security to the people
10 in their work, and thus enabling them to engage in the
11 recovery of economy and industry, and in the develop-
12 ment of civilization. Together with its staff, and
13 with a pure and brave spirit of sparing no pains and with
14 a readiness to be reproached, the National Government
15 proclaims respectfully to the officials and soldiers now
16 in service in Chungking and other areas, to share their
17 Fate and to project the recovery of our state and
18 people in order to unify our innocent people. After
19 the issuance of this proclamation all government offi-
20 cials must immediately return to Nanking and make a
21 report. Every member who has made the above report
22 shall be employed at his present class and pay, after
23 his reliability has been verified. Those who were loyal
24 and who exerted themselves meritoriously in the mediation
25 movement according to their positions shall receive

1 special appointments. After the issuance of this
2 proclamation, soldiers in general must obey orders,
3 suspend hostilities, and wait for further orders.
4 Those not in the regular army and who are in charge of
5 guerillas in various areas must obey orders, cease
6 activities, immediately receive inspection, assemble
7 and wait to be organized. Since these are in the bases
8 for peace and the founding of the new state, everyone
9 must exert himself to this end.

10 "With the return to the capitol, the National
11 Government aims to advance bravely towards the ideals
12 of unification of the entire country, realization of
13 peace and practice of constitutional government, and
14 the entire nation regard it as the only legal central
15 government. Therefore, if the Chungking Government
16 should issue laws and ordinances throughout the country
17 or conclude treaties with foreign countries, naturally
18 they shall all be invalid. It is desired that the
19 Chungking Government would break the deadlock,
20 immediately strive to save the situation, and cooperate
21 to overcome difficulties. Since the incident, the
22 Provisional and the Restoration Government were success-
23 ively established and both have devoted themselves with
24 all their might to preserve the state and to maintain
25 the lives of our people and both have paid heavy

1 sacrifices. Now they have both agreed to unite with the
2 National Government. Therefore, in regards to these
3 matters which have been carried through by them, the
4 present status quo shall be maintained for the time
5 being, but shall be readjusted as soon as possible
6 based on the general trend of their policies. Later,
7 under a united leadership throughout the country and
8 with a unity of mind and benevolence, war damages shall
9 be repaired and efforts made for future development.

10 "These are the very reasons why the recovery
11 of the State and the people and peace in East Asia are
12 so earnestly desired."

13 I next offer in evidence defense document
14 1059. This is a statement of Foreign Minister ARITA
15 made on April 6, 1940, when the first Japanese ambas-
16 sador to the new republic was on the point of leaving
17 to take his post. Japan's attitude toward the new
18 regime is full stated.

19 I expect to read the second and third para-
20 graphs of this document.

21 THE PRESIDENT: Brigadier Nolan.

22 BRIGADIER NOLAN: May it please the Tribunal,
23 we object to this speech for the reasons that we have
24 urged against the reception of other speeches of
25 vice-ministers and ministers in the Japanese Government.

1 This document deals, as of old, with the
2 new order, pro-communism, anti-Japanese feeling, and
3 the inability of third powers to understand the mean-
4 ing of the Holy War. It mentions the impossibility
5 of an economic breakdown in Japan and concludes with
6 a few kind words for Ambassador ABE. The prosecution
7 submits, if it pleases the Tribunal, that there is
8 nothing in the document which will assist.

9 THE PRESIDENT: Major Furness.

10 MR. FURNESS: If the Court please, the part
11 of the document which Brigadier Nolan mentioned is a
12 part of the document on which we do not intend to rely
13 in this instance, which I do not intend to read. What
14 I do intend to read seems to me to be an official
15 statement of the foreign minister on the formation
16 of the new government and upon Japan sending its
17 ambassador to that new government. It deals with the
18 basis upon which the new government is to be recognized.
19 And it seems to me that as an official statement by
20 the foreign minister at that time, it should be admitted
21 as having probative value of the attitude of the
22 government which these accused are charged with con-
23 trolling.
24

25 THE PRESIDENT: By a majority, the Court
overrules the objection and admits the document on

1 the usual terms; that is, to the extent that you pro-
2 pose to read it.

3 CLERK OF THE COURT: Defense document 1059
4 will receive exhibit No. 2606.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 2606 and received in evidence.)
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1 MR. FURNESS: Commencing with the second
2 paragraph:

3 "More than one year has now elapsed since
4 December 30, 1938, when Mr. Wang Ching-wei cried for
5 a peace-national salvation in response to the state-
6 ment by ex-Prime Minister, KONOE; and in entire dis-
7 regard of the adverse criticisms and pressure from
8 all quarters, and despite the loss of many of his
9 comrades, he proceeded resolutely to carry out with
10 a firm conviction what he believed right, and at last
11 he established a new Central Government in Nanking on
12 the 30th last month. This is indeed a matter of
13 hearty congratulation to all of us.

14 "It is needless to say that as for the
15 present incident, what our country desires is that the
16 three countries, Japan, Manchoukuo and China should
17 be united, with a common aim to establish a new order
18 in East Asia, bringing forth fruits of neighborly
19 friendship, anti-Comintern campaign and economic
20 cooperation. I feel quite reassured that we now see
21 the establishment of a new government under Mr. Wang
22 Ching-wei and patriotic men of insight around him
23 and we can resolutely push forward hand in hand, to
24 reach our ideal. The new Government has just been
25 established, and so it is inevitable that it is not

1 strong enough as yet. I firmly believe that it will
2 grow in time to be strong enough because of the
3 passionate patriotism and the conviction for their
4 peace-national salvation policy of Mr. Wang and those
5 around him, which will, in a due course of time, so
6 impress the 400 million Chinese as to win them over
7 under them. Yes, we ought to regard it a great re-
8 sponsibility imposed on Japan that we should help
9 them accomplish this task."

10 We next offer in evidence defense document
11 945. This also is taken from the book "Sharing our
12 Fate." It is an address by Wang Ching-wei at Nanking
13 on 26 April 1940 in which he sets forth the reasons
14 for the new government's policy of establishing friend-
15 ship, joint defense with Japan against communism, and
16 economic collaboration. I do not intend to read this
17 document but merely offer it in evidence.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 945
20 will receive exhibit No. 2607.

21 (Whereupon, the document above
22 referred to was marked defense exhibit No. 2607
23 and received in evidence.)

24 MR. FURNESS: I next offer in evidence
25 defense document 1061 which is an official announcement

1 by the Foreign Office of Japan concerning restric-
2 tions on the travel of Japanese citizens to China.
3 It appears from this document these restrictions were
4 imposed in order to avoid interference with the new
5 government. The date is May 7, 1940 as revealed by
6 inspection of the original document.

7 THE PRESIDENT: Brigadier Nolan.

8 BRIGADIER NOLAN: May it please the Tribunal,
9 the prosecution objects to this announcement by the
10 Foreign Office. If the Japanese authorities saw fit
11 to impose restrictions on Japanese travel in China
12 that is a matter which is wholly irrelevant to the
13 issues before the Tribunal.

14 THE PRESIDENT: The restriction is on only
15 one class of person.

16 MR. FURNESS: It is our submission, if
17 your Honor please, that it deals with the Japanese
18 nationals going to China and has probative value as
19 in proof of Japan's intentions towards China. I do
20 not intend to take the time to read the document even
21 if it is accepted in evidence.

22 THE PRESIDENT: By a majority the Court
23 upholds the objection and rejects the document.

24 MR. FURNESS: I now offer in evidence defense
25 document 1047. This is an official statement by the

1 government of Japan announcing the signing of the
2 treaty concerning basic relations between Japan and
3 China and the protocol annexed thereto, the agreed
4 terms of understanding between the plenipotentiaries
5 of the two countries, and the joint declaration of
6 Japan, Manchoukuo and China on November 30, 1940.

7 THE PRESIDENT: Brigadier Nolan.

8 BRIGADIER NOLAN: May it please the Tribunal,
9 this document is in evidence in exhibit 464 at page 5318
10 of the case.

11 MR. FURNESS: If that is so, your Honor,
12 we withdraw the tender and ask merely that attention
13 be called to the exhibit which Brigadier Nolan has
14 just referred to.

15 We next offer in evidence defense document
16 1052 which is an official document of the Japanese
17 Foreign Office. It sets forth the congratulatory
18 telegrams upon the signing of the documents just
19 introduced into evidence. I do not intend to read
20 this document.

21 THE PRESIDENT: Brigadier Nolan.

22 BRIGADIER NOLAN: May it please the Tribunal,
23 this is an attempt to introduce into evidence through
24 the medium of an announcement of the Intelligence
25 Bureau certain telegrams which passed between the

1 Foreign Minister and other gentlemen. The telegrams
2 are not produced nor is their absence accounted for.

3 MR. FURNESS: If your Honor please, the
4 telegrams are quoted verbatim and it seems to me that
5 unless the prosecution wishes to deny that they were
6 sent or that they are misquoted that this is valid
7 proof of their contents.

8 THE PRESIDENT: You must produce the telegrams
9 or give convincing reasons for not doing so. The ob-
10 jection is upheld and the document rejected.

11 MR. FURNESS: I now offer in evidence
12 defense document 1392. This is a speech made by
13 Wang Ching-wei after he became head of the National
14 Government at Nanking announcing the signing of the
15 treaties adjusting diplomatic relations regarding
16 which I have just tendered evidence. It states the
17 diplomatic policy of the two countries are to be based
18 on co-existence and co-prosperity on equal terms
19 rather than on mutual destruction and disgrace. It
20 is taken from the Tokyo Gazette, an official paper
21 published by the Japanese government from which excerpts
22 have been received heretofore on the prosecution's case.

23 THE PRESIDENT: Brigadier Nolan.

24 BRIGADIER NOLAN: May it please the Tribunal,
25 we object to the introduction of this document. I was

1 not aware from the certificate that it was an excerpt
2 from the Tokyo Gazette but that does not improve
3 matters in any way. We suggest that the defense
4 should be asked to produce the document containing
5 the speech, which document was obviously in the pos-
6 session of the Japanese authorities otherwise it
7 could not have been translated from Chinese into
8 Japanese and reproduced in the Tokyo Gazette. The
9 document itself is objectionable on another ground
10 and that is because the large portion of it purports
11 to interpret a treaty which, of course, is the function
12 of this Tribunal.

13 MR. FURNESS: If the Court please, it is
14 our submission that this is an official document from
15 a source from which the Court has already accepted
16 much evidence when tendered by the prosecution. As
17 to the construction of the document, this is by a
18 man who signed the particular documents. It seems to
19 me it has great probative value as to what they meant.
20 It is contemporaneous and not self-serving in that it
21 is not part of the Japanese government and is not one
22 of these men who are here on trial. I submit that it
23 has probative value and should be accepted under the
24 terms of the Charter and according to the past practice
25 of the Tribunal.

1 THE PRESIDENT: By a majority the objection
2 is upheld and the document rejected.

3 MR. FURNESS: I now offer in evidence
4 defense document 983. This is also taken from the
5 Tokyo Gazette, an official publication of the Japanese
6 government. It quotes an official announcement of
7 Wang Ching-wei as president of the new Nationalistic
8 government regarding the reformation or reforms
9 adopted in order to preserve peace in China and to
10 settle economic conditions.

11 THE PRESIDENT: Brigadier Nolan.

12 BRIGADIER NOLAN: May it please the Tribunal,
13 this document 983 is subject to the same objections as
14 the document which has just been rejected by the
15 Tribunal but I observe further that in addition to
16 purporting to quote, for example, the important ad-
17 dress of Chief Executive Wang there are certain
18 comments interspersed, as will be seen at the bottom
19 of page 2. The document then proceeds to set out the
20 names of the members of the committee and the articles
21 of organization and concludes by quoting from a speech
22 of Mr. Li Shin-chun, the secretary of the committee.

23 MR. FURNESS: If the Court please, I intend
24 to read only the first two pages of the document if it
25 is received into evidence. The document outlines an

1 important measure taken by the new National Government
2 of China and is submitted to prove its strength and
3 independence, that it was not a puppet. I will not
4 reiterate the arguments which were made on the other
5 document but merely submit that the objections go to
6 weight and not admissibility.

7 THE PRESIDENT: The Tribunal unanimously
8 upholds the objection and rejects the document.

9 MR. FURNESS: I next offer in evidence
10 defense document 948. This is taken from the book
11 "Sharing our Fate" and it is a speech made by Wang
12 Ching-wei as chief executive of the National Government
13 at Nanking regarding the local purge movement which
14 was outlined in the document which was just tendered.
15 I do not intend to read this document.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Defense document 948
18 will receive exhibit No. 2608.

19 (Whereupon, the document above
20 referred to was marked defense document No. 2608
21 and received in evidence.)
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1 MR. FURNESS: I next offer in evidence
2 defense document No. 949. This is an excerpt from
3 "Sharing our Fate" and is a speech made by Wang
4 Ching Wei as Chief Executive of the National Govern-
5 ment, Nanking, on the First Anniversary of the
6 Purification Movement, regarding which the last two
7 exhibits were tendered. It outlines the success
8 of such movement and re-emphasizes the reason for it.

9 I do wish to read this document.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document No.
12 949 will receive exhibit No. 2609.

13 (Whereupon, the document above
14 referred to was marked defense exhibit
15 No. 2609 and received in evidence.)

16 MR. FURNESS (Reading): "July 1, 1942
17 (Showa 17), at Nanking.

18 "In May last year, the Nationalist Govern-
19 ment gathered together its political and military
20 strength and, delimiting districts in Chiangsu
21 Province, executed its land purifying program. The
22 program was began in the rural districts in the first
23 and second periods, and in the third period it was
24 extended to the city districts, and even to the north
25 and south of the railway line.

1 "Further effort is to be exerted in future
2 operations but during the course of the past year in
3 those districts where the land-purifying campaign has
4 been completed, peace and order have been secured,
5 population is increasing, prices are gradually be-
6 coming stabilized and people's lives are rapidly
7 improving. All these are physical results of our
8 campaign to purify the land. These results have
9 all been obtained by those who have taken charge in
10 the land-purifying operation suffering continuous
11 hardships, but receiving the united cooperation of
12 the people in the districts where the campaign has
13 been conducted. I should like to express respect
14 concerning this particular point.

15 "We are highly gratified indeed that our
16 friendly nation, according to her original desires,
17 is still continuing to give her assistance to our
18 state even after the outbreak of the Great East
19 Asia War. In each land-purifying operation of each
20 period, I have exerted myself toward the execution
21 of the operation by making inspection tours to all
22 districts involved and giving people their explana-
23 tions and instructions concerning the significance of
24 the campaign and the necessity of sincere effort and
25 cooperation on the part of persons engaged in the

operations."

1 THE PRESIDENT: Why read all this?

2 MR. FURNESS: Yes, your Honor. Counsel
3 desires me to do so. At the Court's recess I will
4 confer with them and see if we can strike out --
5 refrain from reading some of it. I understand that
6 the Japanese counsel do very definitely prefer to
7 have this read.

8 THE PRESIDENT: Well, that may be to help
9 us or it may be for other reasons. We do not know.
10 It certainly does not help us to hear all this stuff.
11 We know exactly what Wang's attitude is or was toward
12 Japan.

13 MR. FURNESS: I do not think in this instance
14 it is a duplication of anything that has been hereto-
15 fore read. The part which I have just read may be
16 in part, but the rest, I believe, is not. It refers
17 to other matters and emphasizes the strength of the
18 government, as I understand it.

19 THE PRESIDENT: Other relevant and immaterial
20 matters.

21 MR. FURNESS: We are willing to forego the
22 reading, if the Court please, and continue with the
23 next document.

24 I now offer in evidence defense document
25

1 operations."

2 THE PRESIDENT: Why read all this?

3 MR. FURNESS: Yes, your Honor. Counsel
4 desires me to do so. At the Court's recess I will
5 confer with them and see if we can strike out --
6 refrain from reading some of it. I understand that
7 the Japanese counsel do very definitely prefer to
8 have this read.

9 THE PRESIDENT: Well, that may be to help
10 us or it may be for other reasons. We do not know.
11 It certainly does not help us to hear all this stuff.
12 We know exactly what Wang's attitude is or was toward
13 Japan.

14 MR. FURNESS: I do not think in this instance
15 it is a duplication of anything that has been hereto-
16 fore read. The part which I have just read may be
17 in part, but the rest, I believe, is not. It refers
18 to other matters and emphasizes the strength of the
19 government, as I understand it.

20 THE PRESIDENT: Other irrelevant and im-
21 material matters.

22 MR. FURNESS: We are willing to forego the
23 reading, if the Court please, and continue with the
24 next document.
25

I now offer in evidence defense document

1 No. 643. This is the treaty concluded between the
2 National Government at Nanking and Japan regarding
3 the return of the international settlements to the
4 jurisdiction of China and the abolition of extra-
5 territorial jurisdiction. It is offered to prove
6 Japan's intention of dealing with the Chinese nation
7 as an equal -- to meet a long-cherished wish to
8 abolish unequal treaties. It is offered to disprove
9 that Japan regarded the Nanking Government as a
10 puppet government. It seems to us an important
11 document, and we do wish to read all except the
12 formal parts.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document No.
15 643 will receive exhibit No. 2610.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2610 and received in evidence.)

19 THE PRESIDENT: We will adjourn now until
20 half-past one.

21 (Whereupon, at 1200, a recess
22 was taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Furness.

MR. FURNESS: I shall read exhibit 2610, omitting the formal parts:

"Agreement between the Empire of Japan and the Republic of China regarding the Retrocession of Concessions and the Abolition of Extraterritorial Jurisdiction, signed at Nanking on 9 January, 1943," effective the same date.

"Chapter 1.

"Article 1. The Government of Japan shall retrocede as soon as possible to the Government of China the administrative jurisdiction over the exclusive concessions which Japan has at present in China.

"Article 2. The Governments of the two Signatory Powers shall appoint two equal numbers of commissioners respectively in order to deliberate and decide upon detailed measures for the enforcement of the preceding article.

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1 "Article 3. After the retrocession of the
2 said concessions, as provided in the preceding two
3 articles, the Government of China shall maintain,
4 in ruling the said districts, at least the same
5 standard as before in regard to the dwellings,
6 commerce and welfare conditions of Japanese sub-
7 jects residing there.

8 "Chapter II.

9 "International Concession & Legation
10 Quarter.

11 "Article 4. The Government of Japan shall
12 recognize the right of the Government of China to
13 recover, as soon as possible, the administrative
14 jurisdiction over the International Concessions in
15 Shanghai and in Amoy and Kulangsu in accordance
16 with the detailed measures to be deliberated and
17 decided upon in connection with the present Agree-
18 ment.

19 "Article 5. The Government of Japan shall
20 recognize the right of the Government of China to
21 recover, as soon as possible, the jurisdiction over
22 the Legation Quarter in Peking.

23 "Chapter III

24 "Extraterritorial Jurisdiction.

25 "Article 6. Inasmuch as the Government of

1 Japan has decided to relinquish its present extra-
2 territorial jurisdiction in China, the Governments
3 of the two Signatory Powers shall establish an ad
4 hoc committee composed of two equal numbers of mem-
5 bers to be appointed respectively by the said two
6 Governments in order to deliberate and decide upon
7 a concrete plan for the said purpose.

8 "Article 7. In consequence of the abolition
9 of extraterritorial jurisdiction by Japan, the
10 Government of China shall keep its territories open
11 to Japanese subjects for dwelling and commerce pur-
12 poses and shall treat them on equal terms with the
13 Chinese citizens.

14 "The ad hoc committee provided in the pre-
15 ceding article shall also study a concrete plan for
16 the above matter."

17 Signed "SHIGEMITSU, Mamoru," the Ambassador,
18 one of the present defendants, and "Wang Chiao-ming,
19 Chief of the Administrative Board of the National
20 Government of the Republic of China."
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1 MR. FURNESS: I intended to offer in
2 evidence defense document No. 1448-A, B, C and D.
3 These are the treaties of alliance between Japan
4 and the new Central Government of China and show
5 that Japan regarded the latter government as an
6 equal partner. The treaty, by its terms, supersedes
7 the Treaty of Basic Relations, dated November 30, 1940.
8

9 Brigadier Nolan has told me that these doc-
10 uments are already in evidence as exhibit 466, but I
11 do not think they were all read. I request permission
12 to read them again rather than take the time of check-
13 ing the record.

14 I call attention to the fact that a state-
15 ment of the Japanese Government regarding the con-
16 clusion of a pact of alliance between Japan and
17 the Republic of China is also included in that exhibit.

18 THE PRESIDENT: We do not want these
19 documents in evidence twice. Apparently, they are
20 rather extensive, too.

21 MR. FURNESS: I think they are rather short,
22 your Honor, and they are documents of great importance.
23 The protocol is in evidence. I find --

24 THE PRESIDENT: I think you had better take
25 the prosecution's word for it, Major Furness, until
you find they are wrong.

1 MR. FURNESS: Brigadier Nolan wishes me to
2 tell the Court, so there will be no misunderstanding,
3 that they were not read in their entirety, that only
4 short excerpts were read.

5 THE PRESIDENT: You are entitled to read
6 the balance so far as relevant and material, but is
7 it necessary? It may be sufficient for you to refer
8 to them later in your address.

9 MR. FURNESS: If your Honor please, I think
10 I will check to determine what has been omitted and
11 see whether it is worth reading. In the meantime,
12 while I am doing it, Dr. KANZAKI, Japanese counsel,
13 who is the Japanese chairman of this phase, will
14 take the lectern.

15 THE PRESIDENT: Dr. KANZAKI.

16 MR. KANZAKI: The doctor's certificate
17 pertaining to the witness, Sadaaki KAGESA, was
18 prepared by the doctors last night and submitted to
19 me this morning. The translation of that certificate
20 has not yet been completed.

21 The purport of this physician's medical certi-
22 ficate is that, because of the seriousness of the
23 witness' condition, he is unable to appear in this
24 Tribunal and be subjected to cross-examination, and that,
25 if he were so subjected to cross-examination, it would

prejudice his condition in the future.

1 I should like to have the witness, Sadaaki
2 KAGESA, examined and would, therefore, like to have
3 the considerate judgment of this Tribunal in con-
4 nection with him.

5 THE PRESIDENT: If he can not be cross-
6 examined here, perhaps he can not be cross-examined
7 on commission.

8 What have you to say, Mr. Tavenner?

9 MR. TAVENNER: Your Honor, I do not question
10 the medical report about his not being able to attend
11 the trial.

12 THE PRESIDENT: The only effect of admitting
13 his affidavit, perhaps, would be that his testimony
14 would not have been the subject of cross-examination.
15 We have much testimony of the kind in this case. Of
16 course, the doctor may think that he can be cross-
17 examined safely in the hospital.

18 Well, what is the position? What does the
19 doctor say about that?

20 MR. KANZAKI: The certificate gives a detailed
21 description of this witness' physical condition at the
22 present moment and states that his physical condition
23 at the present moment does not permit of his appear-
24 ance in this Court and be subjected to cross-examination.
25

1 However, he may be cross-examined in the hospital.

2 MR. TAVENNER: Your Honor, that would
3 satisfy the desires of the prosecution, if we are
4 permitted to cross-examine him on commission in the
5 hospital.

6 THE PRESIDENT: The Court will grant the
7 commission on the usual terms.

8 MR. KANZAKI: Thank you, sir.

9 THE PRESIDENT: It will be a matter for
10 settlement later in chambers as to when the commission
11 is to be taken and under what conditions.

12 Major Furness.

13 MR. FURNESS: If the Court please, I checked
14 with Brigadier Nolan, and we find, I think, that what
15 was read in court was the announcement of the Foreign
16 Office spokesman analysing these treaties, and that
17 the treaties were not read.

18 THE PRESIDENT: I am sure you will not read
19 them just for the sake of reading them, Major. If,
20 in your good judgment, you think you should read
21 them, we will hear you.

22 MR. FURNESS: I think they are basic doc-
23 uments, if your Honor please, and I shall omit parts
24 that seem to me not of importance:
25

1 "Treaty of Alliance between Japan and
2 China," starting with Article 1.

3 "Article 1. In order to maintain perman-
4 ent neighborliness and amicable relations the
5 Empire of Japan and the Republic of China shall
6 mutually respect sovereignty and territorial integ-
7 rity and shall take mutually helpful and friendly
8 measures in all spheres."

9 THE PRESIDENT: We have no copies yet.

10 MR. FURNESS: Oh, I am sorry.

11 THE PRESIDENT: They have already been
12 tendered, although only the Japanese spokesman's ac-
13 count was read.

14 MR. FURNESS: I would like, in order that
15 the Court have the document I am reading before it,
16 to tender my document in evidence so that what I
17 read will be a matter of official record. I, there-
18 fore, tender in evidence again defense document Nos.
19 1448-A through D.

20 THE PRESIDENT: I don't think you had
21 better tender these documents twice, but read from
22 the exhibit already in evidence, and we will use
23 these as copies of what you are reading.

24 MR. FURNESS: I am unable to find the Treaty
25 of Alliance in this exhibit 466 mentioned by the

1 prosecution. 1425-B, the annexed Protocol, which is
2 defense document 1448-B, is the only thing I find
3 here.

4 THE PRESIDENT: Has Brigadier Nolan checked
5 these?

6 MR. FURNESS: And even that is not in the
7 record.

8 BRIGADIER NOLAN: It appear from exhibit
9 466 that the diplomatic correspondence, dated the
10 30th of October, being a letter from TANI to Wang,
11 and the letter from Wang to TANI, are reproduced in
12 the exhibit 466. It also appears that the Protocol
13 annexed to the Pact of Alliance is reproduced in full
14 in exhibit 466. It also shows that the Pact of Al-
15 liance between Japan and China is reproduced in full
16 in exhibit 466.

17 THE PRESIDENT: That covers all four docu-
18 ments. Just read these documents, and we will take
19 them to be copies of the exhibit already in evidence,
20 subject to correction by the prosecution.

21 MR. FURNESS: Reading, then, from exhibit
22 466 which is part of document 1451 of the prosecu-
23 tion:

24 "Pact of Alliance Between Japan and China.
25

1 "Article 1.

2 "Japan and China, in order to maintain perm-
3 anently the relationship of neighborly amity, shall
4 take measures of mutual aid and friendship along all
5 lines while respecting each other's sovereignty and
6 territorial integrity.

7 "Article 2.

8 "Japan and China for constructing and secur-
9 ing stability of Greater East Asia, shall extend to
10 each other cooperation and every possible assist-
11 ance.

12 "Article 3.

13 "Japan and China shall carry on between the
14 two countries close economic cooperation on the basis
15 of reciprocity."

16 Skipping to Article 5.

17 "The Treaty Relating to the Basic Affairs
18 between Japan and China, signed on November 30 of
19 the 15th year of Showa, corresponding to November 30
20 of the 29th Year of the Republic of China, together
21 with all instruments annexed thereto shall cease to
22 have effect as from the date of coming into force of
23 the present Pact.

24 "Article 6.

25 "The present Pact shall come into force as

1 from the day of its signature."

2 THE PRESIDENT: We are reading different
3 translations of the same document, but it seems to
4 be near enough.

5 MR. FURNESS: The 18th year of Showa is
6 1943.

7 Reading now from the Protocol annexed to
8 that treaty:

9 "On signing this day the Pact of Alliance
10 between Japan and China the Plenipotentiaries of the
11 two countries have agreed as follows:

12 "Article 1.

13 "Japan undertakes to withdraw the Japanese
14 forces despatched to the territories of China when
15 general peace between the two countries is restored
16 and the state of war has ceased to exist.

17 "Japan renounces the right of stationing
18 troops she possesses in accordance with the Peking
19 Protocols and supplementary documents relating to
20 the Boxer War.

21 "Article 2.

22 "The present Protocol shall come into force
23 simultaneously with the Pact."

24 Reading now from prosecution document 1451-E,
25 part of exhibit 466:

1 "Letter from Wang to TANI.

2 "I have the honour to state that upon sign-
3 ing today the Pact of Alliance between Japan and
4 China an understanding has been concluded between
5 Your Excellency and myself as follows:

6 "Of the matters of fait accompli existing
7 in China at present, those that require adjustment
8 in the light of the contents of the present Pact,
9 shall be fundamentally adjusted in accordance with
10 the contents of the present Pact when general peace
11 between the two countries is restored and the state
12 of war has ceased to exist.

13 "Even during the continuation of the state
14 of war the required adjustments are to be carried
15 but in accordance with the contents of the present
16 Pact as far as is permitted by circumstances through
17 successive consultation between the two countries.

18 "I shall be glad to receive Your Excellency's
19 confirmation of the above understanding."

20 Reading now from document 1451-E, which is
21 part of exhibit 466:

22 "Letter from TANI to Wang.

23 "I have the honour to acknowledge the re-
24 ceipt of Your Excellency's note of today's date re-
25 garding as follows:"

1 "Letter from Wang to TANI.

2 "I have the honour to state that upon sign-
3 ing today the Pact of Alliance between Japan and
4 China an understanding has been concluded between
5 Your Excellency and myself as follows:

6 "Of the matters of fait accompli existing
7 in China at present, those that require adjustment
8 in the light of the contents of the present Pact,
9 shall be fundamentally adjusted in accordance with
10 the contents of the present Pact when general peace
11 between the two countries is restored and the state
12 of war has ceased to exist.

13 "Even during the continuation of the state
14 of war the required adjustments are to be carried
15 but in accordance with the contents of the present
16 Pact as far as is permitted by circumstances through
17 successive consultation between the two countries.

18 "I shall be glad to receive Your Excellency's
19 confirmation of the above understanding."

20 Reading now from document 1451-E, which is
21 part of exhibit 466:

22 "Letter from TANI to Wang.

23 "I have the honour to acknowledge the re-
24 ceipt of Your Excellency's note of today's date re-
25 garding as follows:"

1 Omitting the next three paragraphs which
2 repeat the letter which I have just read, I read,
3 "I am pleased to confirm the above understanding."

4 Signed "TANI."

5 If your Honor please, Mr. Lazarus will now
6 proceed with the case.

7 THE PRESIDENT: Mr. Lazarus.

8 MR. LAZARUS: If the Tribunal please, with
9 the exception of several witnesses who have been
10 subpoenaed but who have not yet arrived from China,
11 and several witnesses who are either ill and cannot
12 appear or whose affidavits we are preparing after
13 having gotten a subpoena for them, and some prosecution
14 documents from which we want to read excerpts,
15 this concludes the China phase.

16 Defense, if the Tribunal please, is now
17 ready to begin the next to the last phase, the Russian
18 phase.

19 THE PRESIDENT: Mr. Tavenner.

20 MR. TAVENNER: If it please the Tribunal,
21 the prosecution has not had an opportunity to examine
22 the opening statement which is now about to be delivered.
23 We would like to have the opportunity of
24 seeing it long enough to read it before it is
25 delivered.

1 MR. LAZARUS: If the Tribunal please,
2 the Tribunal last Monday stated that it would
3 adhere to **its** original decision that the opening
4 statement need not be served on the other side in
5 advance. Further, throughout the fifteen phases
6 produced by the prosecution, the defense adhered
7 to the gentlemen's agreement between the two sides
8 that any objections that may be offered to an open-
9 ing statement will not be offered until after the
10 statement has been read. We lived up to that gentle-
11 men's agreement even though some of the prosecution
12 opening statements were 65 pages long and page
13 after page we felt was objectionable. In contrast
14 to the 65 page opening statement produced by the
15 prosecution in this phase, ours is but little less
16 than 6 pages and any objections to it may easily be
17 offered upon completion of the reading in a few
18 minutes, if the Tribunal please.

19 THE PRESIDENT: It will take just half an
20 hour to read; five pages of typing, single spaced.

21 MR. LAZARUS: (Reading)

22 "The defense now opens its evidence in the
23 division of the case concerned with charges by the
24 U.S.S.R., charges of aggression political and military.
25 Firstly, on the political plans, aggression is charged

1 in entering into the Anti-Comintern Pact. Secondly,
2 on the military plane, in the incidents of Lake
3 Khasan (or Chang-ku-feng) in 1938 and Khalkin Gol
4 (or Nomonhan) in 1939, and in planning military aggression
5 against the U.S.S.R. at other periods.

6 The defense is, broadly, that the entire
7 current of Japanese diplomatic and military policy
8 vis-a-vis the Soviet Union, during the years from
9 1928 to 1945, was one of defense, in which the military
10 clashes growing out of frontier uncertainties were
11 mere accidents, not instances of planned aggression
12 but eddies seeming only to run counter to the general
13 current.

14 Before proceeding to detail our evidence,
15 we must point out the singularly unsatisfactory and,
16 so to say, intangible character of the case which we
17 are called upon to meet. We are confronted with
18 much evidence of witnesses who testified not in
19 person but by affidavit, affording no opportunity to
20 the most reliable weapon against falsehood known
21 to men -- cross-examination. Some of these witnesses
22 will be shown to have been dead, others to have been,
23 when they gave their evidence, under charge or in-
24 vestigation for "crimes" allegedly committed against
25 the U.S.S.R; others, stated to be ordinary prisoners

1 of war, have nevertheless not been yet repatriated,
2 21 months after the end of the war, to Japan where
3 they might be subjected to cross-examination. In
4 one instance the direct order of the Tribunal that a
5 witness be produced has been responded to by production
6 of neither witness nor explanation. The affidavits
7 of these witnesses consisted in large part of argument,
8 conclusion and opinion; but we have no criterion for
9 determining to what extent their testimony is considered
10 by the Tribunal. In no single instance, lastly, did
11 the subpoena of the Tribunal succeed in obtaining for
12 the defense the attendance of a witness from Soviet
13 custody. These, some of the difficulties of the
14 defense, are adverted to in reminder to the Tribunal
15 that it is not without perplexities that we exercise
16 our judgment in the dual effort to meet any sub-
17 stantial and substantiated issues which have been
18 raised, and to keep our evidence within reasonable
19 bounds.

20 Our solution of this problem is to present
21 our evidence under a few general heads: the Anti-
22 Comintern Pact; the Chang-ku-feng Incident; the
23 Nomonhan Incident; general relations between Japan
24 and the U.S.S.R. from 1928 to 1945, including the
25 Neutrality Pact and Japanese military measures on the

1 Continent.

2 On the Anti-Comintern Pact question, the
3 evidence will be as follows:
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1 In connection with the Anti-Comintern Pact,
2 we shall adduce evidence that the German, Japanese and
3 Italian nations were acting within their legal rights
4 in making a pact against the spread of Communism in
5 Europe and Asia. Proof of the present developments
6 and the world-wide anxiety over the spread of Com-
7 munism will be offered to show a justification for
8 the fears which prompted the action initially. Since
9 Communism is a social weapon and not a belligerent's
10 tool, we must show the political development as the
11 threat, rather than relying upon the armed threat as
12 was suggested in considering the China Communist
13 problem.

14 We will offer to prove that the movement of
15 Communism into various countries in Europe and the
16 threat presented by Communism in Asia were just cause
17 for the agreement between Germany and Japan.

18 Our proof will establish that the object be-
19 hind the pact was to take the lead among nations to
20 preserve the peace of Europe and Asia by curtailing
21 the spread of Communism beyond certain limits; we
22 will show that various nations -- particularly the
23 United States -- took action individually to prevent
24 the spread of Communism in their countries. The pact
25

1 was certainly not a prelude to joint aggressive ac-
2 tion in general, as charged.

3 Our evidence will show that the Anti-
4 Comintern Pact was an ideological pact primarily.
5 The purpose of it from the German side was to pre-
6 vent Communism from spreading in Europe; Britian
7 and Holland were approached with a view of having
8 them also join in the movement against Communism.

9 After withdrawing from the League of Na-
10 tions Japan, her relations with the United States
11 being strained, was left quite alone diplomatically.
12 Japan felt pressure from the USSR, a nation maintain-
13 ing a long frontier in Asia. At that time the Com-
14 intern was extremely active in Spain and China, and
15 in 1935 the decision of the 7th general meeting of
16 the Comintern to make Japan and Germany its first
17 targets drew the special attention of the Japanese
18 Government. Large military preparations by the USSR
19 were in progress, with the five year plan behind the
20 Comintern at that time. In such circumstances it was
21 natural for the Japanese Government to try to secure
22 its national defense.

23 At the time there was a mutual assistance
24 pact between the USSR and France (1935), which cannot
25 be considered aggressive. Why should the Anti-

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18 Government. Large military preparations by the USSR
19 were in progress, with the five year plan behind the
20 Comintern at that time. In such circumstances it was
21 natural for the Japanese Government to try to secure
22 its national defense.

23 At the time there was a mutual assistance
24 pact between the USSR and France (1935), which cannot
25 be considered aggressive. Why should the Anti-

1 Comintern Pact be so considered? This pact was pre-
2 pared after the 1935 decision of the Comintern against
3 Japan and Germany and because of the military prepara-
4 tions of the UUSR, the backbone of the Comintern. It
5 was designed only for self-defense, and was without
6 any aggressive intentions.

7 On 1 August 1936 the Chinese Communist Party
8 made a declaration, its so-called "1 August Declara-
9 tion", openly expressing its hostile attitude toward
10 Japan. Testimony will be offered to the relation be-
11 tween the Chinese Communist Party and the Comintern.

12 The prosecution has said that the Anti-
13 Comintern Pact, and especially the secret agreement,
14 was part of the conspiracy between Italy, Germany and
15 Japan. Whether it was the secrecy or the agreement
16 itself which was the principal element of the charge
17 we are not advised, but we will explain the meaning
18 of both to avoid any misunderstanding. The pact shows
19 on its face that it and the secret agreement were per-
20 fectly legal documents, within the rights of the
21 nations concerned to execute. They are similar to
22 numerous bilateral agreements between the Allied na-
23 tions. We will show that they were intended not as a
24 suggestion for action, but only as passive political
25 documents indicative of a resistance idea, purely de-

1 ensive in character.

2 It is common knowledge that the background
3 of the Communist idea and the resistance to it dated
4 back as far as the end of World War I, when many of
5 the Allied nations declared and waged open war against
6 the Communists. This relates to the question, was
7 the Anti-Comintern Pact justified, and if so, were
8 the powers within their rights in proposing means to
9 prevent the spread of Communism.

10 THE PRESIDENT: Mr. Lazarus, at the request
11 of a Member of the Tribunal we have decided to go
12 into recess for some minutes.

13 (Whereupon, at 1413, a recess was
14 taken until 1430, after which the proceedings
15 were resumed as follows.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Continue your opening state-
4 ment, Mr. Lazarus.

5 MR. LAZARUS: Thank you.

6 This relates to the question, was the Anti-
7 Comintern Pact justified, and if so, were the powers
8 within their rights in proposing means to prevent the
9 spread of Communism? It should be unnecessary to offer
10 proof that the nations of the world were interested in
11 1936, as they are today, in curtailing the spread of
12 communism. We will offer sufficient evidence on this
13 subject to justify the action of Japan as being exercise
14 of the sovereign right of a nation to take steps to
15 defend itself from a political idea which it considered
16 dangerous to its way of life.

17 THE PRESIDENT: You ought to say that you
18 submit that you can do these things, not that you will
19 do them. There is all the difference in the world
20 between submissions and assertions in a court.

21 MR. LAZARUS: Yes, sir. Then we will allow
22 it to be understood that we will submit this evidence,
23 sir. Thank you, Mr. President.

24 We will show the considerations which entered
25 into the deliberations of the leaders charged with the

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21 MR. LAZARUS: Yes, sir. Then we will allow
22 it to be understood that we will submit this evidence,
23 sir. Thank you, Mr. President.

24 We will show the considerations which entered
25 into the deliberations of the leaders charged with the

1 responsibility for the signing of the Anti-Comintern
2 Pact. We shall thus explain and justify the Anti-
3 Comintern Pact and shall analyze the extent to which
4 these accused participated in its execution to exonerate
5 them from any criminal responsibility for doing their
6 duty of helping defend their country, as they believed,
7 from an enemy and alien way of life.

8 As to the prosecution's allegation that Japan
9 and German collaborated in China, during the China
10 Incident, on the basis of the Anti-Comintern Pact,
11 concrete evidence will be tendered in rebuttal. We
12 shall show that Germany found the outbreak of the China
13 Incident surprising and embarrassing; that Germany
14 did not withdraw its military advisors from the Chiang
15 Kai-shek Government, and continued the supply of
16 armaments to that government until considerably later;
17 and that Japan refused to grant Germany any preferential
18 treatment in comparison to that accorded third powers
19 in the economic field of China.

20 From the summer of 1938 until the summer of
21 1939 negotiations took place between Japan and Germany
22 for the so-called "strengthening of the Anti-Comintern
23 Pact." The negotiations were for a pact of mutual
24 assistance among Japan, Germany and Italy; Japan, how-
25 ever, never intended to make it an unconditional,

1 aggressive pact as alleged by the prosecution. Her
2 purpose was rather to conclude a passive, defensive
3 agreement, in consideration mainly of the increasing
4 Russian menace. While the negotiations were continu-
5 ing, Germany concluded the Non-Aggression Pact with
6 Soviet Russia in August 1939, and thereupon Japan broke
7 off the negotiations.

8 The details concerning this abortive pact and
9 the fact that it was fundamentally different from the
10 Tripartite Pact actually concluded in September 1940,
11 will be the subject of proof to be tendered in the
12 Pacific and individual phases.

13 The prosecution in presenting its case laid
14 great stress on the fact that, as it alleged, "the
15 Japanese Government refused to sign a non-aggression
16 pact with the U.S.S.R.", and in its opening statement
17 went so far as to say that "this could have but one
18 meaning," that it "proves beyond any doubt" that Japan
19 was preparing for aggressive war. The documentary
20 evidence read by the prosecution indicates that at no
21 time was any formal non-aggression pact definitely
22 proposed or refused, that the discussions were of the
23 most informal and tentative nature, in Litvinov's
24 diary the first was said to be "over a cup of coffee."
25

By reading portions of exhibits already accepted

1 in evidence in the prosecution's case but not read by
2 the prosecution, we will show that the Japanese Govern-
3 ment did not refuse to enter into discussion of such
4 a pact, but merely it stated that it believed that
5 pending controversies should be solved before a pact of
6 such general nature was concluded. Litvinov, Commissar
7 for Foreign Affairs of the Soviet Union, in urging in
8 1932 that such a pact be discussed, stated that the
9 Soviet Union had concluded such a pact with Lithuania,
10 was conducting negotiations with Poland and was start-
11 ing negotiations with Finland, Esthonia and Latvia.
12 In 1933, in refuting the Japanese submission that pend-
13 ing questions should be settled before a general pact
14 was concluded, the Soviet Union stated that the states
15 with which it had closed such pacts by no means admitted
16 the absence of mutual claims and controversies, but
17 that in fact against one or such states the Soviet
18 Union had well-grounded territorial claims, by reason
19 of a disputable border.

20 THE PRESIDENT: Mr. Tavenner.

21 MR. TAVENNER: If your Honor please, we object
22 to the residue of that paragraph beginning with the
23 words "we will assume," on the ground that the matter
24 has been ruled on before and excluded by the Tribunal.

25 MR. LAZARUS: That is not so, Mr. President.

1 As a matter of fact, in the case of Finland evidence
2 has already been accepted by this Tribunal in the
3 general opening phase. It is our contention that in
4 view of the fact that these matters appear, sir, if
5 the Tribunal please, in Commissar Litvinov's diary,
6 which diary was introduced into evidence by the prosecu-
7 tion, the balance of the statements in that diary are
8 relevant. Since one of the grounds for urging Japan
9 to Join in this kind of a pact was the fact that other
10 nations, the ones named here, sir, had already signed
11 or were in the process of signing, it is also relevant
12 to show what actually happened to them as a result or
13 in spite of, I might say, having signed such a pact,
14 non-aggression pact, and that Japan was perfectly
15 correct in not signing the same.

16 I am informed further, sir, that the evidence
17 will show that it appeared not only in Litvinov's
18 diary but in other diplomatic correspondence.

19 THE PRESIDENT: Recently we gave a considered
20 decision on the question as to what extent we would
21 allow communism generally to be the subject of evidence,
22 and, in the course of the debate, if not in the decision
23 itself, we intimated that the operations of communism
24 in Europe would hardly have any bearing here in the
25 East. What the communists and others did in China to the

1 prejudice of Japanese subjects and Japanese property
2 was, we thought, a relevant consideration, but we never
3 for one moment considered that we had the jurisdiction
4 and a duty to inquire as to the effect of the communistic
5 doctrine in the world and what steps might be taken to
6 combat it.

7 It might have been a relevant consideration
8 with us that Japan, which now through her defense
9 counsel -- or who the accused through their defense
10 counsel now say acted to combat communism - never attacked
11 communistic Russia, but opened her attack on conservative
12 Britain and then on capitalistic America; but whatever
13 may have been the consideration that influenced us
14 we will not exclude a single relevant and material
15 fact that the defense can prove has bearing upon the
16 issues. But we did in the recent decision to which
17 I have referred intimate that there was a limit to
18 the extent to which we would entertain communistic
19 activities, and we did not distinguish them from
20 other activities, prejudicing Japanese nationals and
21 Japanese property.

22 However, I think the majority of the Tribunal
23 would prefer to hear the opening read without inter-
24 ruption unless interruption becomes necessary.
25

MR. LAZARUS: Yes, sir.

1 MR. TAVENNER: Do I understand, your Honor,
2 whether the objection has been sustained?

3 MR. LAZARUS: Shall I continue, sir?
4 May I be heard before a decision is entered,
5 sir?

6 THE PRESIDENT: Have you anything to add?

7 MR. LAZARUS: I believe so, sir.

8 THE PRESIDENT: By a majority the objection is
9 overruled. You may continue to read.

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1 MR. LAZARUS: Thank you, sir.

2 We will assume that the Tribunal reads
3 history and will take judicial notice of what hap-
4 pened to those states along the western border of the
5 Soviet Union with which the Soviet Union had concluded
6 non-aggression pacts, and will ask the Tribunal to
7 judge the effectiveness of such pacts in preventing
8 aggression. We contend that the Japanese Government
9 showed foresight not shown by Poland, Finland,
10 Esthonia, Lithuania and Latvia in its belief that a
11 non-aggression pact should not be concluded with
12 Soviet Russia before pending controversies and
13 territorial claims had been settled.

14 The contention that refusal to sign such a
15 pact proves preparation for aggressive war by the
16 smaller state against the larger state is, we contend,
17 patently untenable, and is in this case affirmatively
18 disproved by the conclusion of the neutrality pact be-
19 tween Japan and Soviet Russia in 1941. This pact was
20 in effect for more than four years, during which time
21 we will show that the Soviet Union repeatedly stated
22 that it was being faithfully observed by both parties,
23 and even in its belated declaration of war did not
24 charge violation by Japan. But we will prove that
25 even that pact did not prevent final aggression by the

1 larger state against the weaker in violation of the
2 definite terms of the treaty.

3 The prosecution has alleged the occurrence of
4 numerous border incidents to be proof of plans of
5 aggression against the Soviet Union by Japan. In the
6 indictment it is charged that two of these incidents--
7 one along the border between Manchoukuo and the
8 Maritime Province of Siberia near Lake Khasan, one
9 along the border between China (not the Soviet Union)
10 and Manchoukuo at the Khalkin Gol River--were aggres-
11 sive wars against the Soviet Union, and has charged
12 certain of the accused with murder in connection with
13 those two incidents. We shall prove that these were
14 typical border incidents, inevitable along a border
15 where both states are armed and the lines are vague or
16 in dispute. It is our contention that there were no
17 violations of the border by Japan, no encroachment by
18 one nation on the territory of another with a view to
19 retaining that territory. If there were violations of
20 the border, which we do not admit, we contend that
21 there has been no proof that those involved knew that
22 the border between the two states was being violated.
23 Those remote from the scene acted on the basis of
24 information and instructions conveyed to them by others,
25 on which they had the right and duty to rely.

1 As to the first of these incidents, that of
2 Lake Khasan or Chang-ku-feng, we will prove that this
3 portion of the border was in dispute, the treaties re-
4 garding it were vague and subject to disagreements
5 as to the location of the border. The border ran
6 through rough country with few monuments to indicate
7 the lines claimed by either of the two states. We
8 will prove that it had been regarded by the natives
9 of Manchoukuo as part of that country, and that it
10 had not been occupied by the troops of either country
11 until mid-July 1938, when it was occupied by frontier
12 troops of the Soviet Union. We will prove further
13 that despite the Soviet claim that the border ran over
14 the summit of hills to the west of Lake Khasan, such
15 troops occupied one hill definitely to the west of
16 that line, and dug trenches and erected barbed-wire
17 entanglements below the summit of Chang-ku-feng Hill,
18 which summit marked the border of the Russian claims.
19 We will prove that gendarmes, sent by the Japanese-Man-
20 choukuoan authorities on the scene to demand withdrawal,
21 were fired on while definitely within Manchoukuoan
22 territory, even under the Russian claims, and that one
23 was killed and others imprisoned. Diplomatic protests
24 were made as early as 14 July. On 20 July the Japan-
25 ese Ambassador, Shigemitsu Mamoru, renewed such

1 protests, more than a week prior to the beginning of
2 any serious hostilities.

3 Although it was their contention that such
4 territory was within the limits of Manchoukuo, the
5 Japanese Government from the very beginning stated
6 that if the status quo ante prior to the occupation of
7 such territory were restored by the withdrawal of
8 troops it would submit the frontier to negotiations.
9 We will submit evidence to prove that such hostili-
10 ties were started by an attack by the Soviet troops,
11 and that after hostilities began the Japanese Govern-
12 ment immediately proposed cessation on the basis of
13 existing positions, the question of the frontier to
14 be settled by existing positions, the question of the
15 frontier to be settled by diplomatic negotiations.
16 This the Soviet Government twice refused, the second
17 time even though it admitted that no Japanese troops
18 were in territory claimed by the Soviet Union. We
19 will prove that throughout the incident the Japanese
20 Government urged negotiations and that at no time did
21 it, as alleged in the opening statement made by the
22 prosecution, demand cession of territory nor that
23 international treaties should be ignored. We will
24 prove that despite the charges made in the indictment,
25 no plans for aggressive war, resulting in this incident,

1 were made by Japan; and that tanks, long-range artil-
2 lery and airplanes were used by the Soviet troops, not
3 by the Japanese, Soviet airplanes bombing non-military
4 objectives far within the borders of Korea. We will
5 prove further that despite this neither side at the
6 time regarded the incident as war nor as more than a
7 border incident. Finally, we will prove that the
8 incident was settled on the basis first submitted by
9 the Japanese Government through its ambassador. We
10 contend that the agreement for the cessation of
11 hostilities, which is already in evidence, was carried
12 out and the incident closed, and that it cannot now
13 be alleged as aggression.

14 The Khalkin-Gol incident--"Nomonhan", as it
15 is known to the world--will be shown to have come
16 about as a result of the ambiguity of frontiers on the
17 bare, almost uninhabited steppe of Western Manchuria
18 and Eastern Outer Mongolia. Like other borders of
19 Chinese territory, that of Outer Mongolia rests upon
20 old administrative boundaries of the Ch'ing Empire and
21 is evidenced rather by tradition and description by
22 metes and bounds in ancient writings than by accurate
23 maps or by boundary-markers. In the spring of 1939
24 troops of the U S S R and of the so-called Mongolian
25 People's Republic--a "republic" not recognized by China

1 or Japan--crossed the river Khalkin-Gol, and clashes
2 with Manchoukuoan troops, later reinforced by Japan-
3 ese, occurred. The Khalkin-Gol had always been consid-
4 ered by China to be the boundary of the Northeastern
5 Provinces and by Manchoukuo therefore as its border.
6 Despite efforts on both sides to prevent extension or
7 continuation of the incident, it continued in sporadic
8 outbursts of conflict, alternating with lulls, until
9 September. On the 15th of that month the incident was
10 settled by agreement between Japanese Ambassador Togo
11 in Moscow and Foreign Minister Molotov, agreement
12 being made upon a boundary line by which Manchoukuo, as
13 the defeated party, conceded territory. It was further
14 agreed that the frontier should be surveyed and marked,
15 which was finally accomplished after work of a joint
16 commission extending over more than two years. The
17 Nomonhan incident was thus settled and closed.

18 Aside from these specific border incidents,
19 the defendants are charged with having plotted, as
20 agents of their country and government, military
21 aggression against the Soviet Union during the years
22 covered by the indictment (as well as presumably other
23 years referred to, but not made the subject of proof,
24 as far back as 1918 and 1904). The contention of the
25 defence is that nothing was plotted vis-a-vis the

1 U S S R but prudent measures of defence, which
2 proved in the end to be vitally needed but quite
3 inadequate. To this point evidence will be addressed,
4 some of the particulars thereof being as follows.

5 .As a result of the Nomonhan incident, the
6 Commander-in-Chief of the Japanese Kwantung Army was
7 replaced, the new commander (General Umezu) being
8 specially selected for his ability faithfully and
9 effectively to carry out the policy of the government
10 and the orders of the military authorities to see that
11 no conflict with the U S S R occurred. The evidence
12 will amply show that from that time to the date of the
13 Soviet attack on Japan those orders and that policy
14 were carried out most scrupulously in Manchuria.

15 If Japan did not wage war against the U S S R,
16 the evidence will show that equally no war or aggression
17 was plotted or planned during the period in question.
18 The operations plans testified to by prosecution witness-
19 es will be shown not only to have been nothing more than
20 theoretical plans for the event of hostilities, but
21 to have been wholly defensive in the bargain; the
22 famous Kantokuen--"Kwantung Army Special Maneuver"--
23 of which so much is made in affidavits was nothing
24 more than a precautionary reinforcement of the
25 Continental force at a time of tenseness of international

1 relations. The strength--quantitatively and
2 qualitatively--of the Japanese forces in Manchoukuo
3 and Korea will appear to have been inferior at any
4 given time to that of the U S S R in its contiguous
5 territories; the colossal expenditures and the rapid
6 increase of expenditures for armament by the Soviet
7 Union will help to explain the Japanese determination
8 to be adequately armed for defence. All Japanese
9 forces were disposed defensively, as is obvious
10 from, for example the placing of air-bases; and these
11 forces were even drawn upon and weakened continuously
12 throughout the progress of the Pacific War.

13 The Russo-Japanese Neutrality Pact was, after
14 Japan had endeavored for some time to secure Soviet
15 agreement to such a treaty, entered into in April
16 1941, from which time it was the fundamental factor
17 in the relations between the two countries. Despite
18 the outbreak successively of the Russo-German war in
19 Europe and the Japanese-American and British in the
20 Pacific, the Pact continued to govern the status of
21 Japan and the U S S R vis-a-vis each other. Repeated
22 assurances of its continued observance were given by
23 the U S S R, upon Japanese request, despite which the
24 Soviet Union was, from as early as the middle of 1942
25 onward, concurrently violating it in various ways.

1 Specific assurance was given, simultaneously with the
2 Soviet denunciation of the Pact in 1945, that the
3 government of the U S S R would (what in any event
4 it was bound by the very terms of the Pact to do)
5 faithfully observe it until its expiration date of
6 April 1946; notwithstanding which the Soviet Union,
7 without having or professing to have any reason
8 therefor except the request of America and Britain,
9 suddenly attacked Japan in August 1945 at a time when
10 there was no pending issue of magnitude between the
11 two countries, but when there was pending Japan's
12 request to the U S S R to mediate on its behalf for
13 a termination of the Pacific war. Despite repeated
14 German demands after June 1941, Japan had consistently
15 refused to enter the war against the U S S R. The
16 declaration of war by the U S S R against Japan was
17 delivered to the Japanese Ambassador in Moscow, with
18 the assurance that his cables reporting it would be
19 forwarded to Tokyo. The cables were never received
20 in Tokyo, nor did the Soviet Ambassador in Tokyo make
21 any effort to deliver a declaration of war until
22 hours after the military actions had begun.

23 Evidence relating to the Anti-Comintern Pact
24 will be presented by Mr. Owen Cunningham.
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1 THE PRESIDENT: The decision to allow you
2 to read that opening statement is without prejudice
3 to any decision on any of the evidence you offer
4 hereafter, of course; that is understood.

5 MR. LAZARUS: Yes, sir.

6 THE PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: If the Tribunal please,
8 Mr. OHARA will introduce the first witness in this
9 phase of the case.

10 THE PRESIDENT: Mr. OHARA.

11 MR. OHARA: Before calling my witness,
12 Mr. President, we would now like to offer for identi-
13 fication defense document No. 1161, entitled "Problems
14 of the Pacific." This document contains the minutes
15 of the proceedings of the Sixth Conference of the
16 Institute of Pacific Relations, held at Yosemite,
17 California, from August 15 to 29, 1936. The publisher
18 of this book is the Oxford University Press.

19 THE PRESIDENT: Are these lights required all
20 this time? They are a source of great discomfort to
21 some Members of the Court. I order them to be
22 extinguished.

23 We will recess for fifteen minutes.

24 (Whereupon, at 1500, a recess was
25 taken until 1515, after which the proceedings

1 were resumed as follows:)

2 THE PRESIDENT: Counsel OHARA.

3 What are you going to do?

4 MR. OHARA: I have tendered a document for
5 identification, sir.

6 THE PRESIDENT: Call it.

7 CLERK OF THE COURT: The book entitled
8 "Problems of the Pacific," being defense document
9 numbered 1161, will receive exhibit No. 2611 for iden-
10 tification only.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 2611 for identification.)

14 MR. OHARA: We next present for identification
15 defense document 980, being a "History of the Movement
16 for Unification of the Anti-Japanese Peoples' Front."
17 This document was published in July 1939, by the
18 Research Section of the South Manchuria Railway Company.

19 THE PRESIDENT: Apparently there is no
20 objection. Call it out.

21 CLERK OF THE COURT: The book will be given
22 exhibit No. 2612 for identification only.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 2612 for identification.)

1 MR. OHARA: If the Court please, we should
2 like to call the witness OTSUKA, Reizo.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: I would like to be heard
5 for a moment before he is sworn.

6 Your Honor, it has occurred to us that there
7 would be a considerable saving of time in the
8 aggregate if, in cases such as this where it is our
9 intention to object to the whole of the witness'
10 affidavit, the objection were heard before the forma-
11 lities of swearing the witness and getting him to
12 identify and sometimes to correct the affidavit are
13 gone through.

14 THE PRESIDENT: Well, we are not an ordinary
15 court, but in an ordinary court the defense would have
16 the right to tender the evidence, and indeed the duty,
17 if they intended later to appeal. Of course, the posi-
18 tion is different here.

19 MR. COMYNS CARR: Yes. Apart from that,
20 your Honor, we should have no objection to its being
21 treated as tendered if the time involved in the pre-
22 liminary proceedings could be saved, which it occurs
23 to us should be agreeable to all parties.

24 THE PRESIDENT: Well, I don't know what my
25 colleagues think.

1 MR. OHARA: If the Court please, we should
2 like to call the witness OTSUKA, Reizo.

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18 tion is different here.

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20 your Honor, we should have no objection to its being
21 treated as tendered if the time involved in the pre-
22 liminary proceedings could be saved, which it occurs
23 to us should be agreeable to all parties.

24 THE PRESIDENT: Well, I don't know what my
25 colleagues think.

1 MR. CUNNINGHAM: Your Honor, we should like
2 to be heard on that proposition first.
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1 MR. OHARA: Documents used by the defense are
2 translated and are examined both by Japanese and
3 American counsel before they are tendered to this Tri-
4 bunal. Therefore, from the time a document is selected
5 and the time it is processed for examination by counsel
6 there is a considerable lapse of time. If circumstances
7 permit, we should like to give these documents in ad-
8 vance to the prosecution, but because of the rapidity
9 of the proceedings of this Tribunal, we are extremely
10 pressed for time. Of course, it is our desire first to
11 translate, print, and to serve these documents. If possible,
12 we should like to have these documents delivered as soon
13 as possible, as soon as they are prepared.

14 THE MONITOR: We are compelled to present the
15 document as soon as it is completed, the production of it
16 is completed. In other words, we do not have the time
17 in between the period from the day it is completed
18 until the day it is presented.

19 THE PRESIDENT: Well, as long as we can get
20 before the Court what is in the affidavit, a description
21 of it so that we will know what it is about, there
22 seems to be no objection to the course you propose,
23 Mr. Comyns Carr.

24 (Whereupon, Mr. Cunningham approached
25 the lectern.)

1 THE PRESIDENT: We are not hearing two counsel
2 on the same issue. Mr. OHARA was put up to argue this
3 point.

4 MR. COMYNS CARR: Your Honor, there would be
5 no objection as far as we are concerned to the document
6 being circulated before the objection is argued so
7 that the Tribunal could see what it is.

8 MR. OHARA: As far as the defense is con-
9 cerned, we should like to have the document identified
10 by the witness, and thereafter tender it as evidence.

11 THE PRESIDENT: Frankly, I think the defense
12 must consent to this; they must tender the evidence.
13 We can't reject anything that hasn't been tendered.

14 The defense, I say, must consent to the course
15 suggested by the prosecution. They can either tender
16 the affidavit itself, or they can call the witness and
17 tender it through him.

18 But you can't tender the evidence, Mr. Carr.

19 MR. COMYNS CARR: No, your Honor. In the
20 interests of time I can only appeal to them to adopt
21 the first course that your Honor has mentioned, namely,
22 to tender the affidavit, and the exhibits thereto, before
23 the witness is sworn in cases where we notify them that
24 the whole thing is going to be objected to. There will
25 be a considerable saving of time.

1 THE PRESIDENT: I think every Member of the
2 Tribunal would like to see the course proposed by you
3 followed, Mr. Carr, and we ask the defense to give their
4 concurrence.

5 MR. OHARA: With regard to that, Mr. President,
6 the defense wishes to express opposition to the views
7 entertained by the prosecution.

8 THE PRESIDENT: And by the Court.

9 Nothing is to be gained by calling the witness
10 here and then tendering the affidavit through him. But
11 everything is to be lost. Time is to be lost.
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1 MR. OHARA: Defense document 1161 is a
2 document personally written by the witness.

3 THE PRESIDENT: 1441, is it?

4 MR. OHARA: 1161. The defense has no
5 objection to the prosecution cross-examining on this
6 document.

7 THE PRESIDENT: You cannot cross-examine
8 a document. You have to call the witness for cross-
9 examination but they may not want him.

10 MR. OHARA: I should like to call the
11 witness OTSUKA, Reizo with the Court's permission.

12 THE PRESIDENT: Frankly, I think you are
13 entitled to. I do not know how to stop you under the
14 present rules. Can you suggest, Mr. Tavenner or Mr.
15 Comyns Carr?

16 MR. COMYNS CARR: Your Honor, I can't
17 suggest any means by which I can insist upon it
18 except pointing out the obvious convenience to every-
19 body.

20 THE PRESIDENT: We may have to adopt rules
21 to avoid this senseless waste of time.

22 MR. OHARA: As the witness is now in the
23 witness room the defense would like to examine him.

24 THE PRESIDENT: Call him.

25

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1 R E I Z O O T S U K A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

DIRECT EXAMINATION

BY MR. OHARA:

Q Witness, what is your name?

A OTSUKA, Reizo.

Q Your age?

A Forty-seven.

Q Have you prepared or made an affidavit in
my presence?

A Yes.

MR. OHARA: I present in evidence defense
document No. 1441.

THE PRESIDENT: Mr. Comyns Carr.

MR. COMYNS CARR: May it please the Tribunal,
the prosecution objects to this document and also to
the two series of extracts from books which are referred
to in it and of which the books have been marked for
identification. In our submission it is quite obvious
from a glance at those documents, the affidavit and
the documents, that they offend against two rules
which have been laid down by this Tribunal after full
consideration. The excerpts from the second book have

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DIRECT

1 not even been served upon us and I can only judge
2 their nature from what is said about them in the
3 affidavit, but according to the list served upon us
4 by the defense there are fifteen of those. The
5 excerpt from the first book has been served upon us
6 and consists of forty-two pages. The affidavit itself
7 consists of twelve pages. The subject matter of the
8 whole is nothing but "Communism in China and its
9 History."

10 You, sir, have already referred this after-
11 noon to the considered ruling of the Tribunal on that
12 subject which is at page 21,081 of the record. I
13 should like to read it. After full argument and
14 adjournment for consideration the Tribunal resumed
15 and your Honor said:

16 "We have our decision on the point argued
17 by Mr. Comyns Carr, Mr. Cunningham and Mr. Logan.

18 "The Tribunal is of the opinion that no
19 evidence of the existence or spread of communism or
20 of any other ideology in China or elsewhere is rele-
21 vant in the general phases. Evidence of an actual
22 attack on Japanese nationals or property by Chinese
23 communists or any other Chinese may be given in
24 justification of Japan's acts.

25 "When the accused come to give evidence,

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1 they may tender their fear of communism in explana-
2 tion of their acts."

3 The other ruling of the Tribunal against
4 which this affidavit and both these books offend is
5 the rule against purporting to give the contents of
6 documents not produced or accounted for.

7 In paragraph 3 of the affidavit the witness
8 states that the book, 1161, is based on various pub-
9 lications of the Chinese communist party and at the
10 end of paragraph 6 he states that the other book
11 which was written by somebody else unnamed contains
12 "reproductions of the documents collected by me."

13 Nowhere in the affidavit does he say what
14 has become of a single one of the documents nor does
15 he say that a single statement in either book is true.
16 In addition, the affidavit contains fifteen references
17 to individual documents or groups of documents apart
18 from those mentioned as forming the foundation of the
19 books. The rest of the affidavit consists of two
20 paragraphs of opinion and one of hearsay. The witness'
21 only qualification to present this material to the
22 Court is that he was at some date beginning in 1925
23 and ending possibly in 1942 an employee of the South
24 Manchurian Railway Company in its research section.

25 In our submission on both of these grounds,

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1 both or all of these grounds, the affidavit and the
2 voluminous extracts from both books should be rejected
3 in toto; and having regard to all that has been said
4 in this Tribunal about the shortage of paper it seems
5 regrettable that they should have been reproduced,
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1 MR. OHARA: I should like to state my
2 views, sir.

3 Mr. Comyns Carr has given his views and
4 comments on the affidavit and the two books re-
5 ferred to in the affidavit. Now this book, one of
6 these books, entitled "The History of the Movement
7 for the Unification of Anti-Japanese People's Front,"
8 is not a history, although the title so indicates.
9 This book is a compilation of declarations and procla-
10 mations and other matters of a like nature of the
11 Chinese Communists. Now, document 2611 is a book
12 written by the witness himself. I am not intending
13 to refer at all to any pages in the book which con-
14 tain opinion. This document is long, but I only
15 intend to refer to parts thereof. This document
16 happens to be very long because it was, first of
17 all, printed to serve as reference matter for de-
18 fense counsel and not to be used as evidence. With
19 regard to both documents, I should like to present
20 those parts of these books which do not contain
21 opinion. Furthermore, I am very familiar with the
22 Court's ruling with respect to the activities of
23 the Chinese Communist Party. However, the Communist
24 Party between the period 1933 and 1937, during a
25 period in which Japan and China were seeking to

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1 settle various outstanding matters and place
2 their relationship on a new basis -- during that
3 time the Chinese Communists, by having the Nanking
4 Government join hands with them, initiated **certain**
5 **movements**, and these movements were not ideological
6 or thought movements alone. They formulated con-
7 crete plans, operations plans, in order to carry
8 out a war of resistance against Japan, and even
9 set up a national defense government to carry out
10 those plans, that is, they tried to set up a
11 national defense government for such a purpose.
12 During this period various negotiations were going
13 on between the governments at Nanking and Tokyo.
14 Part of the evidence has already been tendered to
15 this Tribunal, but it is my submission that these
16 matters will be much more clarified through this
17 witness, and I submit that it is a matter of great
18 importance for this Tribunal to know and to accept
19 the evidence that shows how the activities of the
20 Chinese Communist Party, in instigating the people,
21 the students, and the soldiers of China, carried on --
22 instigated these parties to participate in a war
23 against Japan.
24

25 In order to avoid duplication in these
two documents I should like to read only a small

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1 portion of document 2611.

2 THE PRESIDENT: I think we have heard
3 enough.

4 A Member of the Tribunal wants you to
5 finish your argument. I thought you had finished
6 it.

7 MR. OMARA: Of these two documents,
8 document 2612 was not written by the witness, but
9 are a number of various documents collected and
10 compiled by this witness which he obtained from
11 Chinese sources, and I submit it is only necessary
12 to certify --

13 THE PRESIDENT: You are not adding to your
14 argument; you are repeating it.

15 MR. OMARA: -- to certify the sources of
16 these documents.

17 THE PRESIDENT: Well, have you anything to
18 add?

19 MR. OMARA: I merely wish to state that I
20 will avoid reading the part in these documents which
21 may be considered as opinion, and also I submit to
22 this Tribunal that the testimony of this witness
23 is within the ruling of the Court.

24 THE PRESIDENT: The question is what is
25 relevant.

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1 Well, I understand one of my colleagues
2 wants to discuss it in Chambers. So we will not
3 give you a decision today.

4 We will adjourn until half-past nine
5 Monday morning.

6 (Whereupon, at 1555, an adjourn-
7 ment was taken until Monday, 19 May 1947,
8 at 0930.)

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